gim, Lyda B. Wiggim, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman, George B. Armstrong. T. J. Bailey or Lucy Bailey, as joint tenants and not as tenants in common, with right of survivorship, Hugh A. Baldwin. Mabel F. Beane, Carle W. Beane and Mabel F. Beane as joint tenants, with right of survivorship, and not as tenants in common, Albert J. Berberich, Emma F. Bock, John W. Brown, Estella K. Buche, Henry V. Butler, Andrew J. Christopher, Sallie Christopher, Charles S. Clark, Jr., C. S. Clark, Sr., Emma C. Cline, Emma Coats, Albert Goodwin Coulson, Austin A. Coulson, Jr., Pauline J. Day, J. F. Detrick, Nelle Dingledine, L. Dale Dorney, Dorothea Fismer, Ada L. Ford, Charles A. Ford, Harold R. Gebhart, J. L. P. Hannaford, William D. Haar, Mary McD. Harris, Samantha B. Harter, Dr. W. M. Henry, Helen Herzog, Elmer B. Hoyle, Glen O. Huron, Ethel F. Kaufman, Jacob Kendell, Harvey E. Kiess, Jost J. Kundert, Orella Locke, Chryst H. Loeffler, Nellie Maddock, Carlton G. Mitchell, Lulu Nixon, Lottie E. Norton, John Plummer, Lewis D. Riegle, Ada C. Ruhl, Jessie B. Rupp, Rose E. Ryan, Jacob L. Safier, Elizabeth C. H. Sanborn, Mary White Sayre, Maud Schreel, Ruth Rauh Stern, Robert W. Stevenson, Delmar G. Ubersax, John D. Wachman, Callie B. Webb, John M. Wehrly and Pearl B. Wehrly as joint tenants with right of survivorship but not as tenants in common, and Clara M. Wilgus, Defendants

[fol. 3] BILL OF COMPLAINT—Filed August 8, 1935

To the Honorable Judge of the District Court of the United States, in and for the Western Division of the Southern District of Ohio:

The above named plaintiffs bring this bill in equity against the defendants, and respectfully represent:

1. Jurisdiction is predicated upon the fact that the present action arises under the Act of Congress known as the Federal Farm Loan Act (U. S. C. A. Title 12, Chapter 7). Jurisdiction is also predicated upon diversity or citizenship. The matter in controversy exceeds the sum of Three Thousand Dollars ($3,000.00), exclusive of interest and costs.

2. Plaintiffs are citizens and residents of the State of Missouri and the State of Illinois. They severally own

bonds issued by the Chicago Joint Stock Land Bank, in the amounts (representing the par value of such bonds) set opposite their respective names:

	Amount of bonds
W. E. Brusselback	$4,000.00
W. I. Bell, Stephen D. Forst, Edward N. Heinz, William P. Hoyt, J. Frank Lyman, and William M. Watson, as Trustees of the Retirement Board of the Park Employees, Annuity and Benefit Fund of Chicago, Illinois	128,000.00

3. The defendants are listed in Exhibit "A" which is attached to and made a part of this bill. All of the defendants are citizens of the State of Ohio. Their residences are as set forth opposite their respective names on Exhibit "A." The defendants, respectively, are stockholders of the Chicago Joint Stock Land Bank, and each of the defendants owns the number of shares set opposite his name on Exhibit "A." Defendants, Robert E. Cowden, Francis D. Schnacke, Frank W. Nicholas and A. M. Zimmerman, are incorporators and/or officers of the Western Securities Company, a corporation, which Company held seven hundred fifty-nine (759) shares of Chicago Joint Stock Land Bank stock. Plaintiffs allege that The Western Securities Company, a corporation, was organized as a subterfuge to escape the statutory liability of ownership of shares of Chicago Joint Stock Land Bank. Plaintiffs allege that the names of the stockholders of The Western Securities Company together with a number of shares owned by each, are unknown to these plaintiffs and that discovery pursuant [fol. 4] to the provision of Equity Rule 58 is necessary in order to determine the names of said stockholders of said corporation and the number of shares held by each.

4. The Chicago Joint Stock Land Bank (hereafter for brevity called the Bank) was and is a joint stock land bank, organized and existing under the Act of Congress known as the Federal Farm Loan Act. Such bank was located in Federal Land Bank District No. 6, and had its principal place of business in the City of Chicago, in the State of Illinois.

5. Plaintiffs are bondholders and creditors of such Bank, and bring this suit as such bondholders and creditors, on

their own behalf and on behalf of all other bondholders and creditors of such Bank, including all such bondholders and creditors as may elect to join and participate herein.

6. The Bank has outstanding capital stock of the par value of Four Million Dollars ($4,000,000.00), divided into Forty Thousand (40,000) shares of the par value of One Hundred Dollars ($100.00) each. Such shares were originally sold for the sum of approximately Four Million Dollars ($4,000,000.00) in cash, which sum was paid into the treasury of the Bank.

7. The Bank was incorporated in the year 1917. From that time until October 1, 1932, the Bank conducted its business under and pursuant to the provisions of the Federal Farm Loan Act. Its capital was invested in farm mortgages and Government bonds, and from time to time the Bank issued its own bonds, as permitted by such Act of Congress. The Bank thus issued its own bonds having a face value of more than $42,000,000.00, and all of such bonds were sold to the public pursuant to the provisions of such Act of Congress. All of such bonds were sold for par, or approximately par, and the proceeds thereof were invested, for the most part, in farm mortgages covering farm properties situated in the states of Illinois and Iowa.

8. On October 1, 1932, the Federal Farm Loan Board, acting pursuant to such Act of Congress, declared such Bank to be insolvent, and directed that such Bank discontinue its active operations, and that its assets be turned over to John B. Gallagher, who was appointed by such Board as receiver for such Bank. Continuously since that date, said Gallagher has acted as such receiver, and as such has been engaged in liquidating the assets of the Bank, [fol. 5] with a view to the payment of its debts, as far as possible.

9. On or about October 1, 1932, certain bondholders of the Bank, who owned bonds largely in excess of $3,000, filed their bill in the United States District Court for the Northern District of Illinois, Eastern Division, against the stockholders of the Bank, for the purpose of enforcing the stockholders' liability created and provided for by such Act of Congress. In such bill there were named as defendants the Chicago Joint Stock Land Bank, and all of the

stockholders of such Bank who appeared of record as stockholders as of October 1, 1932. Such stockholders exceeded one thousand in number. Many of them resided in the State of Illinois, and many others resided outside of Illinois. Service was had upon all of the stockholders who resided in Illinois, and who could be found. No service was attempted upon non-resident stockholders, as no such service was permissible under the Federal statutes. A comparatively small number of the defendants who were served defaulted, but for the most part those defendants who were served appeared by counsel and filed answers contesting plaintiffs' right to recover. The cause was referred to a Master, and protracted hearings were had. The Master found that the Bank was insolvent, in that its liabilities exceeded the amount of its assets, to the extent of approximately Twelve Million Dollars ($12,000,000). The Master found that an assessment of one hundred per cent against the stockholders would be necessary, and recommended a decree wherein such an assessment would be levied. The Court approved the report of the Master, and entered a decree assessing the stockholders of the Bank for an amount equal to one hundred per cent of the par value of the shares held by them; and the defendants who were served were directed to pay over such assessments to John B. Gallagher, who was appointed by the Court as receiver to receive the amounts paid, and to disburse the same to the creditors, pursuant to the Court's order.

10. Plaintiffs are advised, and therefore allege, that the above mentioned decree of the United States District Court for the Northern District of Illinois is effective and binding not only upon the Illinois stockholders who were served with process in such cause, but is equally effective and binding upon all of the stockholders of the Bank, wherever residing, and whether of record or otherwise, insofar as such decree determines and fixes the necessity and extent of the [fol. 6] assessments for which the stockholders of such Bank are liabile. So it is that such decree effectively adjudicates against the defendants herein that all of the stockholders of the Bank are liable to the creditors of the Bank for an assessment equal to one hundred per cent of the par value of the shares held by them, respectively.

Plaintiffs pray:

(a) That the writ of subpœna may be directed to the Marshal of the United States District Court for the Southern District of Ohio, against the defendants resident in such District, and that duplicate writs may be directed to the Marshals of other districts of the State of Ohio, against the defendants residing in such Districts, respectively pursuant to U. S. C. A. Title 28, Section 113.

(b) That defendants may be required to answer, pursuant to the equity rules.

(c) That the present action may be treated and regarded in all respects as a class suit wherein and whereby these plaintiffs sue as the representatives of all bondholders and creditors of the Bank, for the purpose of enforcing the assessment heretofore levied against the stockholders of the Bank resident in the State of Ohio, to the end that there may be provided a fund to be administered by this Court for the equal benefit of the plaintiffs herein and all other creditors of the Bank who may desire to take advantage of this proceeding.

(d) That the stockholders who are defendants hereto, or who may be made defendants hereto, may be decreed and ordered to pay the amount of their respective assessments.

(e) That a receiver may be appointed to take charge of the fund realized by collections from the defendants.

(f) That the sums thus realized may be administered by this Court, as a court of equity, and distributed ratably and equitably among the creditors of the Bank, in such manner as the Court may direct.

(g) That plaintiffs may have such discovery, from time to time, as may be needed, pursuant to the provisions of Equity Rule 58.

(h) That plaintiffs may be permitted to amend their bill, from time to time, so as to bring in additional stockholders, or others who may be liable to assessment.

[fol. 7] (i) That all other creditors and bondholders be enjoined from prosecuting separate actions to enforce the stockholders' liability herein sought to be enforced, to the end that the enforcement of such liability may be equitable and ratable, and equally for the benefit of all creditors.

And plaintiffs pray for such other and different relief as may be agreeable to equity.

Townley, Wild, Campbell & Clark, Legler & Murray,
Attorneys for Plaintiffs.

Duly sworn to by Geo. R. Murray. Jurat omitted in printing.

PRÆCIPE

To the Clerk:

Issue summons together with copy of Interrogatories directed to Robert E. Cowden and Francis D. Schnacke, to the Marshal for service upon the defendants returnable according to law. Endorse: "Bill in Equity for enforcing assessment against stockholders of Chicago Joint Stock Land Bank resident in Ohio; for decree ordering defendants to pay their respective assessments; for the appointment of a Receiver; for distribution of funds ratably among the creditors; for discovery; for injunction; for equitable relief and costs of suit."

Townley, Wild, Campbell & Clark, Legler & Murray,
Attorneys for Plaintiffs.

[fol. 8] EXHIBIT "A" TO COMPLAINT

Name	Address	No. of shares
Arnovitz, Herman D.,	343 Park Drive, Dayton, Ohio	25
Artz, J. D.,	1141 North Main Street, Dayton	60
Baker, John W.,	240 Grafton Ave., Dayton	20
Bassett, H. D.,	105 Willowood Drive, Dayton	10
Beatty, Erma P.,	1922 Burbank Drive, Dayton	35
Beckel, Charles B.,	226 S. Jefferson St., Dayton	18
Bentz, Mabel G.,	133 Best Street, Dayton	10
Bentz, Norman A.,	133 Best Street, Dayton	40
Bigler, Jacob,	R. F. D. No. 1, Troy Pike, Dayton	50
Bimm, Arabella R.,	319 Volusia Ave., Dayton	20
Brooks, William,	1401 Salem Ave., Dayton	10
Brown, Mrs. Miriam Mathiot,	51 Harmon Terrace, Dayton	18
Bulchan, Zimmer,	% Greene & Brock, 304 Third National Bldg., Dayton	18

Name	Address	No. of shares
Carter, Norman,	2316 Germantown Street, Dayton	23
Clunet, Mary E.,	Brier Hill Road, Dayton	1
Coler, Ezra E.,	1624 Grand Ave., Dayton	5
Currigan, Miss Mary,	22 Central Ave., Dayton	16
Daugherty, Helen Frances Smith,	703 Oxford Ave., Dayton	25
Dye, Theodore C.,	1515 Woodstock Drive, Dayton	21
Ferneding, C. J.,	269 Park Drive, Dayton	20
Focke, Bernard J.,	615 Xenia Ave., Dayton	10
Gohn, Miss Virginia,	112 Squirrel Rd., Dayton	10
Gorman, E. J. B., Trustee for G. H. Gorman,	310 W. First Street, Dayton	2
Gravett, W. A.,	825 Far Hills Ave., Dayton	50
Gray, Dr. F. C.,	519 Plymouth Ave., Dayton	5
Grimm, Richard Allison,	225 Lonsdale Ave., Dayton	35
Hall, Miss Eliza Phillips,	1640 S. Main St., Dayton	4
Herbst, William E.,	22 Marshall Street	20
Horrell, Zola B.,	1727 Auburn Ave., Dayton	100
Huemmer, Dorothy Jane,	723 Keowee St., Dayton	557
Irvin, James M., Executor of Estate of Obed W. Irvin, deceased,	800 Oakwood, Ave., Dayton	30
Johnson, John Burlin,	447 W. Hudson Ave., Dayton	10
Jones, Charles L.,	304 Third Natl. Bldg., Dayton	6
Joslin, Mrs. Edith P.,	2122 Wayne Ave., Dayton	20
Kendall, Cora Manley,	109 Central Ave., Dayton	20
Kershner, Mary L.,	112 N. Western Ave., Dayton	170
Keve, Henry C.,	1334 E. Third St., Dayton	5
Kinnard, J. Ritner,	79 Park Road, Dayton	150
[fol: 9]		
Kirby, Mrs. Merretta S.,	1316 Colwick Dr., Dayton	100
Klinger, Peter W.,	235 Grafton Ave., Dayton	105
Knedler, Paul,	1310 E. First St., Dayton	82
Kroemer, Karl,	647 Oak Street, Dayton	10
Kuntz, Nicholas J.,	632 Bellemonte Park, N. Dayton	50
Lingham, Edward T.,	71 Central Ave., Dayton	50
Malone, Mrs. Georgiana D.,	190 Cambridge Ave., Dayton	17
Mathiot, Mrs. Katherine G.,	647 Grand Ave., Dayton	3
McKee, Mrs. Sarah H.,	238 Northview Rd., Dayton	20
Meuche, Mrs. Florence E.,	472 Irving Ave., Dayton	3
Meuche, Karl S.,	472 Irving Ave., Dayton	5
Miller, Charles A.,	24 Huffman Ave., Dayton	20

Name	Address	No. of shares
Morrill, Mrs. Alice May George	513 Union Trust Bldg., Dayton	25
Morrill, Eliot Winthrop	513 Union Trust Bldg., Dayton	78
Myers, Henry E.	229 Perrine St., Dayton	15
Oneth, Jacob A.	316 Richmond Ave., Dayton	14
Parrott, Frances I.	245 Orchard Ave., Dayton	1
Parrott, John E., Jr.	240 Dixon Ave., Dayton	1
Peirce, Fannie H.	339 Kramer Rd., Dayton	25
Peirce, J. Elliott	339 Kramer Rd., Dayton	5
Pierce, Mrs. Kate	1711 Radcliffe Rd., Dayton	7
Prugh, Mary C.	61 E. Hudson Ave., Dayton	45
Russum, Miss Alice Jane	646 St. Nicholas Ave., Dayton	20
Ryan, Ida May B.	% George P. Bassett, 1326 N. Main St., Dayton	9
Schnacke, Francis D.	Winters Natl. Bank Bldg., Dayton	5
Smith, Miss Gladys L.	700 Far Hills Ave., Dayton	10
Stoehr, Robert F.	1927 Benson Dr., Dayton	11
The Charles Sucher Packing Co.	North Western Ave., Dayton	75
Turner, Edward T. and Wellmore B. Turner, trustees under the will of Earl H. Turner, dec'd.	228 Central Ave,. and 201 Beckel Bldg., Dayton	25
Watt, Frank E. and Mina R.	752 Kennilworth Ave., Dayton	20
Weakley, Mrs. Viola M.	518 W. Second St., Dayton	25
Weakley, Virginia M.	355 W. First St., Dayton	3
Weakley, William Conklin	355 W. First St., Dayton	17
Third National Bank & Trust Co., Executor of the Estate of George W. Weimer, dec'd.	N. Main St., Dayton	35
[fol. 10] Western Securities Co.	% Craighead, Cowden, Smith & Schnacke, Winters Natl. Bank Bldg., Dayton	759
Wiedenbein, Emma M.	232 N. Wilkinson St., Dayton	135
Wiggim, Miss Cora A.	410 Salem Ave., Dayton	21
Wiggim, Miss Lyda B.	410 Salem Ave., Dayton	26
Robert E. Cowden	Winters Natl. Bank Bldg., Dayton	Incorporators and (or) officers of Western Securities Co. a Corporation
Frank W. Nicholas	Municipal Bldg., Dayton	
A. M. Zimmerman	924 Xenia Ave., Dayton	
Armstrong, George B.	Laurelville	50

Name	Address	No. of shares
Bailey, T. J. or Lucy Bailey, as joint tenants and not as tenants in common, with right of survivorship,	Citizens Natl. Bank, McConnelsville	40
Baldwin, Hugh A.	347 E. State St., Columbus	20
Beane, Mrs. Mabel F.	West Manchester	4
Beane, Carl W. and Mabel F., as joint tenants, with right of survivorship, and not as tenants in common,	West Manchester	4
Berberich, Albert J.	Box 721, Piqua	2
Bock, Mrs. Emma F.	Hamilton	10
Brown, John W.	626 Caldwell St., Piqua	35
Buche, Mrs. Estella K.	Scarlet Oaks Home, Cincinnati	12
Butler, Henry V.	Box 1161, Columbus	5
Christopher, Andrew J.	Jamestown	7
Christopher, Mrs. Sallie	Jamestown	31
Clark, Charles S. Jr.	Wakeman	7
Clark, C. S., Sr.	Wakeman	12
Cline, Mrs. Emma C.	210 E. South St., Arcanum	10
Coats, Mrs. Emma	Tippecanoe City	5
Coulson, Albert Goodwin	Malta	60
Coulson, Austin A. Jr.	Malta	60
Day, Pauline J.	212 Ohio St., New Richmond	6
Detrick, J. F.	Tippecanoe City	25
Dingledine, Nelle	Arcanum	10
Dorney, L. Dale	205 E. Lima St., Findlay	5
Fismer, Miss Dorothea	125 E. Norwich Ave., Columbus	20
Ford, Mrs. Ada L.	Box 1044, Columbus	10
Ford, Charles A.	West Manchester	5
Gebhart, Harold R.	Miamisburg, R. F. D. No. 1	5
Hannaford, J. L. P.	4403 Ashland Ave., Norwood	10
Harr, William D.	Troy	10
Harris, Mrs. Mary McD.	Box 584, Athens	20
[fol. 11] Harter, Mrs. Samantha B.	New Madison	8
Henry, Dr. W. M.	Jamestown	7
Herzog, Mrs. Helen	2562 Scottwood Ave., Toledo	40
Hoyle, Elmer B.	1305 Washington Ave., Piqua	2
Huron, Glen O.	1026 Union Trust Bldg., Cincinnati	20
Kaufman, Ethel F.	% Toledo Trust Co., Toledo	4
Kendel, Jacob	Covington	6
Kiess, Harvey E.	472 East Oakwood Ave., Bucyrus	5
Kundert, Jost J.	Osborn	10
Locke, Orella	2421 Hudson Ave., S. Norwood	3

Name	Address	No. of shares
Loeffler, Chryst H.,	Piqua	10
Maddock, Miss Nellie,	North Ridgeville	5
Mitchell, Carlton G.,	626 Park Ave., Hamilton	10
Nixon, Lulu,	1101 Cardinal St., Steubenville	9
Norton, Lottie E.,	39 Manitou Dr., Maumee	100
Plummer, John,	809 E. Mansfield St., Bucyrus	5
Riegle, Lewis D.,	Park Ave., Greenville	7
Ruhl, Ada C.,	% O'Donnell, O'Donnell & O'Donnell, Covington	14
Rupp, Mrs. Jessie B.,	14561 Madison Ave., Lakewood	4
Ryan, Miss Rose E.,	1603 Treadway Ave., Cleveland	100
Safier, Jacob L.,	% I. & S. Bing Co., 8th & Sycamore Sts., Cincinnati	4
Sanborn, Elizabeth C. H.,	90 14th Ave., Columbus	5
Sayre, Mary White,	88 South Drexel Ave., Columbus	30
Schreel, Mrs. Maud,	Greenville	5
Stern, Mrs. Ruth Rauh,	2580 Norfolk Rd., Cleveland	5
Stevenson, Robert W.,	% Carnegie Library, Columbus	10
Ubersax, Delmar G.,	2185 Bunts Road, Lakewood	55
Wachman, John D.,	419 Plum St., Cincinnati	25
Webb, Callie B.,	East Columbus	20
Wehrly, John M. and Pearl B.,	as joint tenants with right of survivorship, but not as tenants in common, West Manchester	5
Wilgus, Clara M.,	R. F. D. No. 5, Brookville	30

[fol. 12] IN UNITED STATES DISTRICT COURT

MOTION FOR APPOINTMENT OF RECEIVER—Filed September 13, 1935

Now comes the plaintiffs and move the Court for the appointment of John B. Gallagher as local Receiver herein.

Townley, Wild, Campbell & Clark, Legler & Murray,
Attorneys for Plaintiffs.

Passed Bill 4th.

IN UNITED STATES DISTRICT COURT

MOTION FOR LEAVE TO FILE AMENDED BILL—Filed September 24, 1935

Now comes the plaintiffs herein and move the Court for leave to file an amended Bill in Equity forthwith.

Townley, Wild, Campbell & Clark, Legler & Murray, Attorneys for Plaintiffs.

IN UNITED STATES DISTRICT COURT

ENTRY GRANTING LEAVE TO FILE AMENDMENT TO BILL—Filed October 7, 1935

On motion of the plaintiffs leave is given to said plaintiffs to file an amendment to the Bill in Equity forthwith, subject to the rights of the defendants to file objections thereto, to all of which all the defendants except.

Approved:

Nevin, Judge.

Legler & Murray, Attorneys for Plaintiffs. R. E. Cowden, F. D. Schnacke, Roy G. Fitzgerald, Counsel for Defendants.

[fol. 13] IN UNITED STATES DISTRICT COURT

AMENDMENT TO BILL—Filed October 7, 1935

Pursuant to an order of the Court entered this day, W. E. Brusselback, and W. I. Bell, Stephen D. Forst, Edward N. Heinz, William P. Hoyt, J. Frank Lyman, William M. Watson, as Trustees of the Retirement Board of the Park Employees' Annuity and Benefit Fund of Chicago, Illinois, plaintiffs herein, hereby amend their bill in equity heretofore filed in this case as follows:

1. By filing the following paragraph 3a as part of said bill in equity the said paragraph to become, be and stand as, paragraph 3a of said bill;

3a. That H. D. Bassett who is named as a defendant in this cause, died on the 27th day of December, 1932, a resident and inhabitant of Ohio; that said H. D. Bassett left

a last Will and Testament appointing as Executor of his estate one Robert G. Bassett, 3310 Home Ave., Dayton, Ohio; that said last Will and Testament was duly probated in the Probate Court of Montgomery County, Ohio; that on the 21st day of April, 1933, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to Robert G. Bassett as Executor of the Estate of said H. D. Bassett, and that said Robert G. Bassett is now acting as such Executor of the Estate of said H. D. Bassett.

That C. J. Ferneding who is named as a defendant in this cause, died on the 29th day of June, 1931, a resident and inhabitant of Ohio; that said C. J. Ferneding left a last Will and Testament appointing as Executors of his estate H. L. Ferneding, 125 Wisteria Drive, Dayton, Ohio, T. A. Ferneding, 1334 East Third Street, Dayton, Ohio, and Marla F. Keve, 1334 East Third Street, Dayton, Ohio; that said last Will and Testament was duly probated in the Probate Court of Montgomery County, Ohio; that on the 25th day of July, 1931, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to H. L. Ferneding, T. A. Ferneding and Marie F. Keve as Executors of the Estate of said C. J. Ferneding.

That Bernard J. Focke who is named as a defendant in this cause, died on the 7th day of May, 1932, a resident and inhabitant of Ohio; that said Bernard J. Focke left a last Will and Testament appointing as Executor of his estate Urban G. Focke, 1537 N. Euclid Ave., Dayton, Ohio; that said last Will and Testament was duly probated in the Pro-[fol. 14] bate Court of Montgomery County, Ohio; that on the 26th day of May, 1932, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to Urban G. Focke as Executor of the Estate of said Bernard J. Focke, and that said Urban G. Focke is now acting as such Executor of the Estate of said Bernard J. Focke.

That F. C. Gray who is named as a defendant in this cause, died on the 22nd day of October, 1932, a resident and inhabitant of Ohio; that said F. C. Gray left a last Will and Testament appointing as Executor of his estate Daniel Nevins, 809 U. B. Building, Dayton, Ohio; that said last Will and Testament was duly probated in the Probate Court of Montgomery County, Ohio; that on the 1st day of November, 1932, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to Daniel

Nevins as Executor of the Estate of said F. C. Gray and that said Daniel Nevins is now acting as such Executor of the Estate of said F. C. Gray.

That William E. Herbst who is named as a defendant in this cause, died on the 27th day of November, 1934, a resident and inhabitant of Ohio; that said William E. Herbst left a last Will and Testament appointing as Executor of his estate Frank H. Herbst, 304 Richmond Avenue, Dayton, Ohio; that said last Will and Testament was duly probated in the Probate Court of Montgomery County, Ohio; that on the 12th day of December, 1934, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to Frank H. Herbst as Executor of the Estate of William E. Herbst, and that said Frank H. Herbst is now acting as such Executor of the Estate of William E. Herbst.

That Obed W. Irvin who is named as a defendant in this cause, died on the 17th day of May, 1935, a resident and inhabitant of Ohio; that said Obed W. Irvin died intestate and that on the 21st day of June, 1935, Letters of Administration were issued by the Probate Court of Montgomery County, Ohio, to James M. Irvin, 800 Oakwood Avenue, Dayton, Ohio, as Administrator of the Estate of Obed W. Irvin, and that said James M. Irvin is now acting as such Administrator of the Estate of Obed W. Irvin.

That Frances I. Parrott who is named as a defendant in this cause died on the 13th day of July, 1934, a resident and inhabitant of Ohio; that said Frances I. Parrott left a last Will and Testament appointing as Executrix of her estate Mary E. P. Clunet, Briar Hill Road, Dayton, Ohio; [fol. 15] that said last Will and Testament was duly probated in the Probate Court of Montgomery County, Ohio; that on the 19th day of July, 1934, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to Mary E. P. Clunet as Executrix of the Estate of Frances I. Parrott, and that said Mary E. P. Clunet is now acting as such Executrix of the Estate of said Frances I. Parrott.

That George W. Weimer who is named as a defendant in this cause, died on the 10th day of February, 1933, a resident and inhabitant of Ohio; that said George W. Weimer left a last Will and Testament appointing The Third National Bank and Trust Company, North Main Street, Dayton, Ohio, as Executor of his estate; that said last Will and

Testament was duly probated in the Probate Court of Montgomery County, Ohio; that on the 1st day of March, 1933, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to The Third National Bank and Trust Company as Executor of the Estate of George W. Weimer, and that said The Third National Bank and Trust Company is now acting as such Executor of the estate of said George W. Weimer.

That Sallie Christopher who is named as a defendant in this cause, died on the 25th day of March, 1935, a resident and inhabitant of Ohio; that said Sallie Christopher left a last Will and Testament appointing A. J. Christopher, Jamestown, Ohio, as Executor of her estate; that said last Will and Testament was duly probated in the Probate Court of Greene County, Ohio; that on the 28th day of March, 1935, Letters Testamentary were issued by said Probate Court of Greene County, Ohio, to said A. J. Christopher as Executor of the Estate of Sallie Christopher, and that said A. J. Christopher is now acting as such Executor of the Estate of said Sallie Christopher.

That Ada L. Ford who is named as a defendant in this cause, died on the 16th day of February, 1935, a resident and inhabitant of Ohio; that said Ada L. Ford left a last Will and Testament appointing as Executor of her estate Frank C. Anderson, Mt. Vernon, Ohio; that said last Will and Testament was duly probated in the Probate Court of Franklin County, Ohio; that on the 27th day of February, 1935, Letters Testamentary were issued by said Probate Court of Franklin County, Ohio, to Frank C. Anderson, as Executor of the Estate of Ada L. Ford, and that said Frank C. Anderson is now acting as such Executor of the Estate of said Ada L. Ford.

[fol. 16] That Ada C. Ruhl who is named as a defendant in this cause, died on the 31st day of August, 1932, a resident and inhabitant of Ohio; that said Ada C. Ruhl left a last Will and Testament appointing as Executor of her estate one L. A. Ruhl, Covington, Ohio; that said Last Will and Testament was duly probated in the Probate Court of Miami County, Ohio; that on the 17th day of September, 1932, Letters Testamentary were issued by said Probate Court of Miami County, Ohio, to L. A. Ruhl as Executor of the Estate of Ada C. Ruhl, and that said L. A. Ruhl is now acting as such Executor of the Estate of said Ada C. Ruhl.

That each of said estates hereinbefore named and their respective executors and said administrator as heretofore set forth are liable as such, under the laws of the United States mentioned in said bill, to these plaintiffs and other creditors of the Chicago Joint Stock Land Bank.

That Cora A. Wiggim who is named as a defendant in this cause died on the 16th day of April, 1933, a resident and inhabitant of Ohio; that said Cora A. Wiggim left a last Will and Testament appointing as Executrix of her estate, one Lyda B. Wiggim, 410 Salem Avenue, Dayton, Ohio; that said last Will and Testament was duly probated by the Probate Court of Montgomery County, Ohio; that on the 22nd day of May, 1933, Letters Testamentary were issued by said Probate Court of Montgomery County, Ohio, to Lyda B. Wiggim as Executrix of the estate of said Cora A. Wiggim; that said Cora A. Wiggim at the time of her death and prior thereto was the owner of twenty-one (21) shares of stock of the Chicago Joint Stock Land Bank and left as a part of her estate twenty-one (21) shares of stock; that under the laws of the United States referred to in said bill, said estate became liable to the plaintiffs and all other creditors of the Chicago Joint Stock Land Bank for all liability of said company which arose while said estate owned said stock up to an amount equal to the par value of said stock; that a Final Account was filed on the 20th day of February, 1935 by the said Lyda B. Wiggim as such Executrix; that the assets of said estate have been distributed to the beneficiaries thereof, although the claim of the plaintiffs and other creditors of the Chicago Joint Stock Land Bank against said estate arising out of the ownership by said estate of said shares of stock has never been paid; that said Lyda B. Wiggim was a beneficiary of said estate and as such beneficiary, was entitled to receive for her own use under said last Will and Testament, and did receive a large [fol. 17] part of the assets of said estate; that Florence Wiggim Crist was a beneficiary of said estate and as such beneficiary, was entitled to receive for her own use under said last Will and Testament, and did receive a large part of the assets of said estate; that Mariana Wiggim was a beneficiary of said estate and as such beneficiary, was entitled to receive for her own use under said last Will and Testament, and did receive a large part of the assets of said estate; that the value of such assets received by said ben-

eficiaries for their own use was in excess of the par value of said shares of stock owned by said estate; that under the laws of the United States said beneficiaries became and are liable to the plaintiffs and certain other creditors of the Chicago Joint Stock Land Bank for the payment of said claim of the plaintiffs and other creditors against said estate to the extent of the par value of said shares of stock.

That J. F. Dietrick who is named as a defendant in this cause died on the 8th day of October, 1932, a resident and inhabitant of Ohio; that J. F. Dietrick left a last Will and Testament appointing as Executrix of his estate, one Doris Langley Dietrick, Tippecanoe City, Ohio; that said last Will and Testament was duly probated by the Probate Court of Miami County, Ohio; that on the 5th day of November, 1932, Letters Testamentary were issued by said Probate Court of Miami County, Ohio, to Doris Langley Dietrick as Executrix of the estate of said J. F. Dietrick; that said J. F. Dietrick at the time of his death and prior thereto was the owner of twenty-five (25) shares of stock of the Chicago Joint Stock Land Bank and left as a part of his estate said twenty-five (25) shares of stock; that under the laws of the United States referred to in the said bill, said estate became liable to the plaintiffs and all other creditors of the Chicago Joint Stock Land Bank for all liability of said company which arose while said estate owned said stock up to an amount equal to the par value of said stock; that a Final Account was filed on the 30th day of April, 1935, by the said Doris Langley Dietrick as such Executrix; that the assets of said estate have been distributed to the beneficiary thereof, although the claim of the plaintiffs and other creditors of the Chicago Joint Stock Land Bank against said estate arising out of the ownership by said estate of said shares of stock has never been paid; that said Doris Langley Dietrick was a beneficiary of said estate and as such beneficiary, was entitled to receive for her own use under said last Will and Testament, and did receive the assets of said estate; that the value of such assets received by said beneficiary for her own use was [fol. 18] in excess of the par value of said shares of stock owned by said estate; that under the laws of the United States said beneficiary became and is liable to the plaintiffs and certain other creditors of the Chicago Joint Stock Land

Bank for the payment of said claim of the plaintiffs and other creditors against said estate to the extent of the par value of said shares of stock.

Plaintiffs allege that in the latter part of 1928 the defendants, Robert E. Cowden, Francis D. Schnacke, Frank W. Nicholas and A. M. Zimmerman, and other persons unknown to these plaintiffs, desired to purchase and hold certain shares of the stock of the Chicago Joint Stock Land Bank, but knowing that such shares were subject to assessment for the debts of the bank, desire to evade and escape the possibility of any such assessment. To that end, they conceived the idea of organizing an Ohio corporation, with a nominal capital, or with a capital precisely equal to any amounts which they might thereafter pay for shares of the Chicago Joint Stock Land Bank, and placing such shares of record in the name of such corporation, so that ostensibly any assessment levied on account of the ownership of such shares would be levied against such corporation. But it was part of the plan of said defendants to provide said corporation with no capital with which to meet any such possible assessment, and thereby said defendants sought to hold ownership of the shares of said Chicago Joint Stock Land Bank without being liable for any assessment upon such shares. Pursuant to this plan, said defendants, during the latter part of 1928, caused to be incorporated under the laws of Ohio a corporation known as the Western Securities Company (hereafter for brevity sometimes called Securities Company). Said Securities Company had an authorized capital of 250 shares without par value, and was authorized to commence business with a capital of $500.00 paid in. The defendants, Cowden, Schnacke, Nicholas and Zimmerman, were incorporators or officers of said Securities Company, and were stockholders therein. Subsequent to the organization of said Securities Company, and between January 11, 1929, and August 3, 1931, said defendants purchased 759 shares of the stock of the Chicago Joint Stock Land Bank, for the sum of approximately $8,000.00 and as such shares were purchased, said defendants caused said shares to be placed of record in the name of said Securities Company. Said shares of stock were purchased with money furnished by said defendants, and said purchases were made either [fol. 19] by said defendants, or by said Securities Company for the account and benefit of said defendants. Neither

said defendants nor the other stockholders of said Securities Company paid any money into the treasury of said Securities Company, except as money was required from time to time to purchase shares of the Chicago Joint Stock Land Bank. And no funds whatever were paid into the treasury of said Securities Company, except for the purpose of purchasing shares of said Chicago Joint Stock Land Bank. No fund whatever was provided by said defendants, or the other stockholders of said Western Securities Company wherewith to meet any possible assessment upon said shares, and, in point of fact, said Securities Company is wholly without funds wherewith to meet any such assessment. In point of fact, said Securities Company was organized and maintained solely as an agency of said individual defendants, for the purpose of holding of record the shares of the Chicago Joint Stock Land Bank which were purchased from time to time by said individual defendants. Subsequent to the insolvency of said Chicago Joint Stock Land Bank, said Western Securities Company carried on no further business. It failed to file the proper reports and pay the proper taxes from year to year to the Secretary of State of Ohio, with the result that on November 15, 1934, the articles of incorporation of said Securities Company were cancelled by the State of Ohio, and said Securities Company is no longer in existence. Plaintiffs are advised, and therefore allege, that by reason of the foregoing facts, the incorporators, officers, directors, and stockholders of said Western Securities Company should be regarded, in law, as the real owners of the 759 shares of stock which were placed of record in the name of Western Securities Company, and that such individuals should be subject to assessment accordingly. Plaintiffs are informed and believe that in addition to said Cowden, Schnacke, Nicholas, and Zimmerman, there were other stockholders of said Western Securities Company who were affiliated with said Cowden, Schnacke, Nicholas, and Zimmerman, and that all of the individuals thus affiliated conspired together to become the owners of shares of said Chicago Joint Stock Land Bank, and to evade and defeat any possible assessment which might be levied upon such shares. The defendants, Cowden, Schnacke, Nicholas, and Zimmerman are made parties hereto, to the end that they may be assessed on account of the shares owned of record by said Western Securities Company, and to the further

[fol. 20] end that they may be compelled to make discovery of the names and addresses of their associates, and of all other stockholders of said Western Securities Company.

Plaintiffs allege that the defendant, C. J. Mattern, is the duly appointed, qualified and acting Executor of the Estate of one R. Otto Baumann, deceased, under the authority of the Probate Court of Montgomery County, Ohio; that R. Otto Baumann was the owner of twenty-five (25) shares of Chicago Joint Stock Land Bank stock for a number of years prior to May 23, 1929, and that on said day said R. Otto Baumann caused said twenty-five (25) shares to be transferred to Herman D. Arnovitz, defendant herein. Plaintiffs further allege on information and belief that the estate of R. Otto Baumann was and is now the beneficial owner of said twenty-five (25) shares so transferred to defendant, Herman D. Arnovitz; that said transfer was made to contravene the statutory liability of ownership of said shares; that said Herman D. Arnovitz did not consent to the transfer of said shares to his name; that said Herman D. Arnovitz paid no consideration for said transfer of shares and has never accepted certificates therefor; that these plaintiffs are uninformed as to the real ownership of said twenty-five (25) shares and pray discovery in order to determine the real owner of the twenty-five (25) shares so transferred by R. Otto Baumann, deceased, to Herman D. Arnovitz, party defendant herein. Plaintiffs make C. J. Mattern as Executor of the Estate of R. Otto Baumann, a party defendant herein and pray that he be required to set up what interest said estate had in said twenty-five (25) shares of Chicago Joint Stock Land Bank.

Townley, Wild, Campbell & Clark, Legler & Murray,
Attorneys for Plaintiffs.

Duly sworn to by Geo. R. Murray. Jurat omitted in printing.

[fol. 21] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed September 13, 1935

Now comes the defendant Andrew J. Christopher, and on the records, pleadings and files in this cause, moves the

Court to dismiss the Bill in Equity herein filed upon the following grounds, to-wit:

1. That it appears on the face of said Bill in Equity that this Court has no jurisdiction to herein determine this suit as against this defendant, and that this Court has no jurisdiction of the subject matter of this suit against this defendant.

2. That there is a mis-joinder of parties defendant in said Bill for the reason that the liability of the defendants herein, and each of them, is several and not joint.

3. That it appears on the face of said Bill that said Bill is wholly without equity.

4. That it appears on the face of said Bill, by plaintiffs own showing, that they are not entitled, nor is either of them entitled to the relief prayed for by this Bill against this defendant.

5. That it appears on the face of said Bill that the same is ambiguous therein in each of said respects, and in that it does not state the full Decree of the Court in the United [fol. 22] States District Court for the Northern District of Illinois, Eastern Division, upon which the Bill filed herein is predicated.

Wherefore, and for divers and other good reasons of objections appearing on the face of said Bill, this defendant prays judgment of this Honorable Court whether it shall be compelled to make further or any answer to said Bill, and it humbly prays to be hence dismissed with its costs in this behalf sustained.

Neal Hunter, A. P. Mercer, H. P. Williamson, Attorneys for Defendant, Andrew J. Christopher.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed September 13, 1935

Comes now the Third National Bank & Trust Co., Executor of the Estate of George W. Weimer, deceased, one of the defendants herein, and on the records, pleadings and files in said cause, and moves the Court to dismiss the Bill

in Equity of the plaintiffs upon the following grounds, to-wit:

1. That it appears on the face of said Bill of Equity that said Bill is wholly without equity.

2. That it appears on the face of said Bill that this Court has no jurisdiction in the subject matter of this suit, and no jurisdiction to herein determine the same.

3. That it appears on the face of said Bill that there is a mis-joinder of parties defendant herein, in that the liability of any of the defendants is not joint.

[fol. 23] 4. That it appears on the face of the Bill by plaintiffs own showing, that they are not entitled to nor either of them entitled to the relief prayed for by this Bill against the defendant, nor to any relief arising from facts alleged in said Bill.

5. That it appears on the face of said Bill that the same is ambiguous therein in each of said respects, and in that it does not state the full decree of the Court in the United States District Court for the Northern District of Illinois, Eastern Division, upon which the Bill filed herein is predicated.

Wherefore, and for divers and other good reasons of objection appearing on the face of said Bill, this defendant prays judgment of this Honorable Court whether it shall be compelled to make further or any answer to said Bill, and it humbly prays to be hence dismissed with its costs in this behalf sustained.

A. P. Mercer, H. P. Williamson, Attorneys for Defendant, The Third National Bank & Trust Co., Executor of the estate of George W. Weimer, Deceased.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed September 13, 1935

Now come the defendants, The Western Securities Company, Mrs. Emma Coats, Henry E. Myers L. Dale Dorney, Francis D. Schnacke and John Burlin Johnson, and re-

spectfully move the Court to dismiss the Bill of Complaint heretofore filed herein for the reasons that:

[fol. 24] First. Said Bill is insufficient in fact to constitute a valid cause of action in equity.

Second. Said Bill shows upon its face, and these defendants represent to the Court, that the person or persons entitled to collect the payment of the assessment heretofore made against the stockholders of the Chicago Joint Stock Land Bank of Chicago by the United States District Court for the Northern District of Illinois, Eastern Division, have an adequate and complete remedy at law therefor.

Said defendants further move the Court to dismiss as parties defendant to this Bill all those persons who are alleged to have held less than thirty-one shares of the stock of Chicago Joint Stock Land Bank, for the reason that this Court is without jurisdiction as to such defendants.

R. E. Cowden, Roy G. Fitzgerald, F. D. Schnacke,
Solicitors for said Defendants.

Receipt of copy of above motion acknowledged.

Legler & Murray, Solicitor for Plaintiffs.

September 13, 1935.

IN UNITED STATES DISTRICT COURT

OBJECTION TO INTERROGATORIES AND MOTION TO DISMISS—
Filed September 13, 1935

Now come the defendants, Robert E. Cowden, Francis D. Schnacke, Frank W. Nicholas and A. M. Zimmerman, sued herein as incorporators, and/or officers of The Western Securities Company, a corporation, and object to the Inter-[fol. 25] rogatories filed herein and addressed to the defendants, Robert E. Cowden and Francis D. Schnacke, and move that said Interrogatories be dismissed for the reason that the same are impertinent, irrelevant and incompetent.

Said defendants further move that the Bill of Complaint herein be dismissed as to them for the reasons that they are improperly joined as defendants in this action, and that said Bill of Complaint is insufficient in fact to constitute a valid cause of action in equity against them.

R. E. Cowden, Roy G. Fitzgerald, F. D. Schnacke,
Solicitors for said Defendants.

Notice

Messrs. Legler & Murray, Dayton, Ohio, Attorneys for Plaintiffs:

Please take notice that the above named defendants, Robert E. Cowden, Francis D. Schnacke, Frank W. Nicholas and A. M. Zimmerman, propose to file forthwith and present to the above named Court as early as practicable the foregoing Objections to Interrogatories and Motion to Dismiss.

R. E. Cowden, Roy G. Fitzgerald, F. D. Schnacke, Solicitors for said Defendants.

Receipt of above notice, together with copy of said Objections to Interrogatories and Motion to Dismiss, is hereby acknowledged this 13th day of September, 1935.

Legler & Murray, Attorneys for Plaintiffs.

[fol. 26] In United States District Court

Motion to Dismiss on Behalf of Defendant, Lyda B. Wiggim—Filed September 14, 1935

Now comes the Defendant, Lyda B. Wiggim, and moves the Court to dismiss the Bill of Complaint filed in the above entitled cause upon the ground and reason therefor, as follows:

1st. That there are not sufficient facts alleged to constitute a cause of action in equity against this Defendant.

2nd. That this Defendant is the owner of less than thirty-one (31) shares of stock of the Chicago Joint Stock Land Bank; and, therefore, the matter in controversy as between the Plaintiffs and this Defendant is less than Three Thousand Dollars ($3,000.00).

Murphy, Murphy & Mayl, Solicitors for the Defendant, Lyda B. Wiggim.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BY MARY E. CLUNET, ET AL.—Filed September 14, 1935

This day come Mary E. Clunet, Virginia Gohn, Mabel F. Beane, Carl W. Beane and Mabel F. Beane named as joint tenants, Charles A. Ford, Samantha B. Harter, and John Wehrly and Pearl H. Wehrly named as joint tenants, parties defendant, and severally move the Court to dismiss the Bill of Complaint as to them for the reasons following:

1. Plaintiffs have an adequate remedy at law.

2. The action (if any) against defendants and each of them should be at law.

[fol. 27] 3. The Bill is multifarious, joining many defendants and causes of action.

4. The Bill violates Equity Rule No. 26 in that it unites separate alleged causes of action for fixed amounts of money, against separate defendants, which are not properly cognizable in equity, and sufficient grounds do not appear for uniting them or resorting to equity.

5. The defendants are improperly joined.

6. The Bill is in derogation of rights guaranteed defendants by the Seventh Amendment of the Constitution of the United States, in that it would evade the requirement of filing suits against them at common law, for the money claimed, which suits are by said Amendment required to be by jury.

7. The Bill is in derogation of rights guaranteed by the Fifth Amendment of said Constitution in that it seeks to deprive defendants of trial by jury and deprive them of property without due process of law.

8. The Bill does not state a sufficient cause of action.

Roy G. Fitzgerald, Joseph W. Sharts, Attorneys for Defendants Named.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT BY DEFENDANT, THE CHARLES SUCHER PACKING COMPANY—Filed September 14, 1935

Now comes the defendant, The Chas. Sucher Packing Company, and moves the Court to dismiss Bill of Complaint for the following reasons:

1. No judgment or finding has been rendered in any proceeding to which this defendant was a party in reference [fol. 28] to the necessity for any assessment upon the stockholders of The Chicago Joint Stock Land Bank, 280 U. S. 49.

2. The purported judgment or finding in Illinois as to the necessity of assessing said stockholders did not have this defendant as a party thereto and further the time for appeal of said purported judgment or finding has not transpired.

3. The Bill of Complaint recites that the claim against this defendant is for assessment on 75 shares at $100.00 par value or a total of $7500.00 whereas the Acts of Congress limit the par value of said bank to $5.00 per share, or a total of $375.00 hence not within the jurisdiction of this Court.

4. For all such other errors as appear in said Bill of Complaint.

John W. Ratchford, Attorney for Defendant, The Chas. Sucher Packing Co.

IN UNITED STATES DISTRICT COURT

MOTIONS OF J. D. ARTZ—Filed September 14, 1935

Now comes the Defendant, J. D. Artz and moves this Honorable Court as follows:

1. Appearing specially for the purpose of this Motion only, not entering his appearance generally and protesting the jurisdiction of this Honorable Court over the Defendant, moves to quash the service of the Subpœna in equity

upon this Defendant for the reason that this Court has no jurisdiction over his person.

[fol. 29] 2. Appearing specially for the purpose of this Motion only, not entering his appearance generally and protesting the jurisdiction of this Honorable Court over the Defendant, moves to dismiss the Bill of Complaint herein for the reason that upon the face of the said Bill this Court is without jurisdiction.

E. H. & W. B. Turner, Attorneys for the Defendant, J. D. Artz.

IN UNITED STATES DISTRICT COURT

MOTIONS OF EDWARD T. TURNER AND WELLMORE B. TURNER, TRUSTEES—Filed September 14, 1935

Now come the Defendants, Edward T. Turner and Wellmore B. Turner as Trustees under the will of Earl H. Turner, deceased and move this Honorable Court as follows:

1. Appearing specially for the purpose of this Motion only, not entering their appearance generally and protesting the jurisdiction of this Honorable Court over the Defendants, move to quash the service of the Subpœna in equity upon these Defendants for the reason that this Court has no jurisdiction over their persons.

2. Appearing specially for the purpose of this Motion only, not entering their appearance generally and protesting the jurisdiction of this Honorable Court over the [fol. 30] Defendants, move to dismiss the Bill of Complaint herein for the reason that upon the face of the said Bill this Court is without jurisdiction.

E. H. & W. B. Turner, Attorneys for the Defendants, Edward T. Turner and Wellmore B. Turner, as Trustees under the Will of Earl H. Turner, Dec'd.

Motion to attach Exhibit "A" as a part of this Motion is sustained.

Nevin, Judge.

November 4, 1935.

[fol. 31] EXHIBIT "A" TO MOTION

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In Equity. No. 12303

W. E. BRUSSELBACK, et al., Plaintiffs,

vs.

CHICAGO JOINT STOCK LAND BANK, a Corporation, et al., Defendants

DECREE

This cause came on to be heard at this term, and was argued by counsel, and thereupon, upon consideration thereof, it was ordered, adjudged and decreed as follows:

1. The Court has jurisdiction of the subject matter of this cause, and of the parties hereto.

2. The report of Master in Chancery Thomas J. Peden, heretofore filed in this cause, is hereby approved and confirmed in all respects, and all exceptions filed to said report by any of the parties to this suit are hereby overruled.

3. The findings of fact made by the Master in his said report are hereby adopted as the findings of fact required to be made by this Court, by the Federal Equity Rules.

4. The conclusions of law made by the Master in his said report are hereby adopted as the conclusions of law required to be made by this Court, by the Federal Equity Rules.

5. It is further ordered, adjudged and decreed That an [fol. 32] assessment be and hereby is levied upon all of the stockholders of the Chicago Joint Stock Land Bank, and each and every one of them, equally and ratably, and not one for another, in the amount of one hundred per cent (100%) of the par value of the stock so held by each stockholder on the first day of October, 1932.

6. It is further ordered, adjudged and decreed That plaintiffs have and recover judgment pro confesso, payable to John B. Gallagher, Receiver herein, against each of the following defendants, who have been served with process herein, and who have failed to appear, or to file answer herein, in the amounts set opposite their respective names, as follows:

Name	Amount
W. E. Ainsworth	Two Thousand Dollars ($2,000)
George N. Alderson	Four Thousand Dollars ($4,000)
William O. Anderson	Four Hundred Dollars ($400)
Mrs. Emma Andrews	One Thousand Dollars ($1,000)
Edwin H. Baker	Five Hundred Dollars ($500)
Anna K. Baldwin	Fifty-one Hundred Dollars ($5100)
J. F. Ballou	Six Hundred Dollars ($600)
Frank H. Bartholomay	Five Thousand Dollars ($5,000)
Ole Benson	Twenty-one Hundred Dollars ($2100)
George Bleakley	Four Thousand Dollars ($4,000)
Mrs. Mary E. Bowman	Five Hundred Dollars ($500)
Jacob Buss	Ninety-eight Thousand Five Hundred Dollars ($98,500)
Reid H. Carson	Six Hundred Dollars ($600)
Christian Church	Nine Hundred Dollars ($900)
Flora B. Clark	Eighteen Hundred Dollars ($1800)
Mrs. Ellen Comerford	Seven Hundred Dollars ($700)
Miss Margaret Comerford	Seven Hundred Dollars ($700)
R. C. Cook	Fifty-five Hundred Dollars ($5500)
Dean C. Cutler	Eleven Hundred Dollars ($1100)
R. L. Cutler	Five Hundred Dollars ($500)
J. H. Dempsey	One Hundred Dollars ($100)
Clarissa E. Ela	One Thousand Dollars ($1,000)
Gustave L. Ensenberger	Five Hundred Dollars ($500)
Thomas R. Evans	Two Hundred Thirty-five Thousand Dollars ($235,000)

[fol. 33]

Evanston Investors, Inc.	Twenty-eight Thousand Three Hundred Dollars ($28,300)
Victor L. Ferrette	One Thousand Dollars ($1,000)
T. T. Fletcher	Thirteen Thousand, Two Hundred Dollars ($13,200)
Lillie G. Gage	Five Hundred Dollars ($500)
Ada Goble	One Hundred Dollars ($100)
Harriet E. Grandy	Three Thousand Dollars ($3,000)
William Grennan	Five Thousand, Four Hundred Dollars ($4,500)
Mabel L. Griswold	Four Thousand, Four Hundred Dollars ($4,400)
Spencer C. Grover	Five Hundred Dollars ($500)
William Hartquist	Twelve Hundred Dollars ($1200)
Mrs. Agnes Harty	One Thousand Dollars ($1,000)
Alfred M. Hayden	Five Hundred Dollars ($500)
Robert J. Herrmann	Fourteen Hundred Dollars ($1400)
Angie R. Hickman	Eight Hundred Dollars ($800)
Mrs. Cleta M. Hurst	Five Hundred Dollars ($500)
Elizabeth T. Hurst	Two Hundred Dollars ($200)
Mary L. Ivers	Five Hundred Dollars ($500)
Charles J. Johnson	Seven Hundred Dollars ($700)

Name	Amount
Mrs. Emma Oleson Johnson	Five Hundred Dollars ($500)
Manuel Johnson	Six Hundred Dollars ($600)
Theodore C. Johnson	Two Thousand Dollars ($2,000)
Mrs. Nettie Kelly	Seven Hundred Dollars ($700)
E. F. Kirby	Two Thousand Dollars ($2,000)
Robert J. Koeppe	Eighteen Thousand Dollars ($18,000)
Henry Victor E. Larson	Four Hundred Dollars ($400)
La Salle National Bank & Trust Company, as Trustee for Norma M. Burkart, under agreement dated January 9, 1931	Two Thousand Five Hundred Dollars ($2,500)
La Salle National Bank & Trust Company, as Trustee for William S. Hawthorne, under agreement dated December 30, 1930	Twenty-eight Thousand Dollars ($28,000)
La Salle National Bank & Trust Company, Trustee for Anne Hummer, under agreement dated April 25, 1931	Two Thousand Dollars ($2,000)
La Salle National Bank & Trust Company, Trustee for Marie Jakowsky under agreement dated January 14, 1931	Five Thousand, Seven Hundred Dollars ($5,700)

[fol. 34]

La Salle National Bank & Trust Company, Trustee for Helen Wacker under agreement dated June 11, 1932	Seven Thousand Dollars ($7,000)
La Salle National Bank & Trust Company, Trustee for Irma Wirtz under agreement dated January 31, 1931	One Thousand Dollars ($1,000)
Mrs. Kate Lewis	Five Hundred Dollars ($500)
A. W. Lillienstein	One Thousand Dollars ($1,000)
Elmer I. Lutz	One Thousand, Five Hundred Dollars ($1,500)
Mrs. Mantie H. Mathers	One Thousand Dollars ($1,000)
M. Belle Mathews	Three Thousand Six Hundred Dollars ($3,600)
William B. Mattingly	One Thousand, Six Hundred Dollars ($1,600)
Andrew R. Michael	Five Hundred Dollars ($500)
Ed. F. Miller	One Thousand Dollars ($1,000)
Louisa Miller	Seven Hundred Dollars ($700)
Charles L. Mombleau	Five Thousand Dollars ($5,000)
Miss Olive Myers (now Mrs. Olive Cedars)	Two Thousand, One Hundred Dollars ($2,100)

Name	Amount
Mrs. Sarah Myers	One Thousand, Five Hundred Dollars ($1,500)
Elmer Nafziger	Two Hundred Dollars ($200)
William O'Connell	Eleven Thousand, Five Hundred Dollars ($11,500)
Miss Hattie Patterson	Eight Thousand, Six Hundred Dollars ($8,600)
Charles K. Peck and Hattie Patterson, as executors of the estate of Susan M. Bailey	Four Hundred Dollars ($400)
Mrs. Ella Perrine	Five Thousand, Seven Hundred Dollars ($5,700)
H. Albert Pratt	Seven Hundred Dollars ($700)
William G. Ready	Seven Thousand Dollars ($7,000)
John E. Reynolds	Eight Hundred Dollars ($800)
Charles Roberts	Three Hundred Dollars ($300)
John M. Rosenfield	Ten Thousand Dollars ($10,000)
Allan A. Rowand	One Thousand, Six Hundred Dollars ($1,600)
Elizabeth O. Rowe	Four Hundred Dollars ($400)
Fredericka Schmith	Two Hundred Dollars ($200)
Elmer Schultz	Twenty-three Thousand, Two Hundred Dollars ($23,200)

[fol. 35]

Odelia Schulz	Two Hundred Dollars ($200)
Martin Schwanberger	Fifteen Thousand Dollars ($15,000)
Mae M. Sexauer	Eight Hundred Dollars ($800)
Dora M. Sheaff	Two Thousand Dollars ($2,000)
Cecil Shillum	Five Thousand, Three Hundred Dollars ($5,300)
Amelia Smith	One Hundred Dollars ($100)
Fred W. Smith	One Hundred Dollars ($100)
Fred W. Smith and John C. Smith, executors of the estate of Anna M. Wise, deceased	Two Hundred Dollars ($200)
Miss Hertha Smith	Five Hundred Dollars ($500)
Manfred Smith	Eleven Hundred Dollars ($1100)
Mrs. Eileen Soland	Nine Hundred Dollars ($900)
Melville G. Soule	Four Thousand, Seven Hundred Fifty Dollars ($4,750)
Mrs. Lois O. Squires	Two Thousand, Five Hundred Dollars ($2,500)
Fred R. Stephenson	Two Thousand, Eight Hundred Dollars ($2,800)
A. D. Stevens	Five Hundred Dollars ($500)
Miss Mildred A. Stolldorf	Three Hundred Dollars ($300)
Miss Charlotte Jane Taylor	One Thousand Dollars ($1,000)
Glen C. Tellkamp	Eight Hundred Dollars ($800)
Edward C. Tepper	Five Thousand Dollars ($5,000)
Bernice L. Thurow	Eight Hundred Dollars ($800)

Name	Amount
Harold J. Voorhees	One Thousand, Five Hundred Dollars ($1,500)
Joe Voorhees	Nine Hundred Dollars ($900)
Mrs. Ruby B. Voorhees	One Thousand, Five Hundred Dollars ($1,500)
Edward S. Wagner	One Thousand, Two Hundred Dollars ($1,200)
Charles O. Wamhoff	Three Thousand, Two Hundred Dollars ($3,200)
Harry Wilder Wesson	Eight Hundred Dollars ($800)
Frank White	Thirty-six Thousand Dollars ($36,000)
Minnie M. Willard	Four Hundred Dollars ($400)
Harold J. Winans	Five Thousand Dollars ($5,000)
Ed Wise	One Hundred Dollars ($100)
Elmer Wise	One Hundred Dollars ($100)
Frank Wise	One Hundred Dollars ($100)
George Wise	One Hundred Dollars ($100)
Charles G. Wolaver	Three Hundred Dollars ($300)

7. It is further ordered, adjudged and decreed That plain-
[fol. 36] tiffs have and recover judgment, payable to John B. Gallagher, Receiver herein, against each of the following defendants, who have appeared and answered herein, in the amounts set opposite their respective names, as follows:

Name	Amount
Ima Hall Adee	Three Thousand, Five Hundred Dollars ($3,500)
F. W. Alderman	Eight Hundred Dollars ($800)
Ruby Alderman	One Hundred Dollars ($100)
Walter S. Allen	Four Hundred Dollars ($400)
Mrs. Clara V. Ashling	Three Hundred Dollars ($300)
E. Adelbert Ashling	Five Hundred Dollars ($500)
Elwin Adelbert Ashling	One Hundred Dollars ($100)
John M. Avise	Six Hundred Dollars ($600)
Mrs. Ada M. Bacone	Four Hundred Dollars ($400)
Bacone & Co.	Seven Hundred Dollars ($700)
W. I. Baird	One Thousand Dollars ($1,000)
Emily Baker	One Hundred Dollars ($100)
Lyman Baker	One Hundred Dollars ($100)
Mary Cossit Baker	One Hundred Dollars ($100)
Mrs. Mary Lyman Baker	Two Thousand, Six Hundred Dollars ($2,600)
John L. Barthelemy	Five Hundred Dollars ($500)
Walter Bartlett	Eight Hundred Dollars ($800)
Mrs. Eda R. Becker	One Thousand Dollars ($1,000)
Fred E. Becker	One Thousand Dollars ($1,000)
Samuel F. Beetz	Six Hundred Dollars ($600)
Henry D. Bills	One Thousand Dollars ($1,000)

Name	Amount
Arthur H. Black	Five Hundred Dollars ($500)
Hal Bollman	Two Thousand Dollars ($2,000)
C. A. Bopes	Three Thousand, Three Hundred Dollars ($3,300)
Delaie D. Bouslough	One Thousand Dollars ($1,000)
A. L. Bowen	Three Thousand Dollars ($3,000)
R. Y. Bradshaw	Two Thousand Dollars ($2,000)
Luther B. Bratton	One Thousand Four Hundred Dollars ($1,400)
Mrs. Ruby S. Brewer	Five Hundred Dollars ($500)
Ruth O. Brewer	Four Hundred Dollars ($400)
Cora L. Briggs	One Thousand Dollars ($1,000)
F. E. Brown	Two Thousand Dollars ($2,000)
Roy W. Brown	One Thousand, Five Hundred Dollars ($1,500)
W. J. Burleigh	Four Thousand Dollars ($4,000)
W. N. Byler	Five Hundred Dollars ($500)
Eliza Esther Carr	Six Hundred Dollars ($600)
[fol. 37]	
Edward B. Chapin	Five Thousand, Five Hundred Dollars ($5,500)
Miss Lucy Chapin	Five Hundred Dollars ($500)
John Charlton	Three Thousand Dollars ($3,000)
Richard E. Claypool	One Thousand Dollars ($1,000)
Ethel C. Cleary	One Thousand Dollars ($1,000)
E. A. Clevidance	One Thousand Dollars ($1,000)
Mrs. Hazel Noble Clevidance	Five Hundred Dollars ($500)
Kent S. Clow, guardian of Elise Hamill Clow	One Thousand Dollars ($1,000)
Commercial Merchants National Bank and Trust Company, of Peoria, as trustee of the Estate of S. L. Nelson, deceased	Five Thousand Dollars ($5,000)
John D. Constant	One Thousand, One Hundred Dollars ($1,100)
Hazel Roper Corsa	One Thousand Dollars ($1,000)
C. A. Crosby	One Thousand Dollars ($1,000)
George M. Cummings	Seven Hundred Dollars ($700)
Ada E. Davis and Cora B. Hill, jointly	Eight Hundred Dollars ($800)
Ellen Davis	One Thousand, Five Hundred Dollars ($1,500)
Mrs. Olive C. Dean	One Thousand Dollars ($1,000)
Wilford W. DeBerard	One Thousand Dollars ($1,000)
C. Leslie Derr	Five Hundred Dollars ($500)
Mrs. A. W. Deselm	Five Hundred Dollars ($500)
Mrs. Mary E. Dilley	One Hundred Dollars ($100)
Myrtle T. Dixon	One Thousand, One Hundred Dollars ($1,100)
Mrs. Helen M. Dougherty	One Thousand, Eight Hundred Dollars ($1,800)

Name	Amount
Hermea Droysen	Three Thousand, Five Hundred Dollars ($3,500)
Miss Elizabeth Dunbar	Five Hundred Dollars ($500)
C. Elton Eckerd	One Thousand Dollars ($1,000)
Lelah Shearer Eddy	Five Hundred Dollars ($500)
George Ehrlicher	One Thousand Dollars ($1,000)
Clara E. Elder	Five Hundred Dollars ($500)
Alice Babb Ewing	Seven Hundred Dollars ($700)
Howard Eychaner	Two Thousand Dollars ($2,000)
James Gordon Fairbanks	Four Hundred Dollars ($400)
Jean Secor Fairbanks	Four Hundred Dollars ($400)
Kellogg Fairbank	Ten Thousand Dollars ($10,000)
Kellogg Fairbank and Benjamin Carpenter, as Trustees under the Will of N. K. Fairbank	Twenty-five Thousand Dollars ($25,000)

[fol. 38]

Mrs. Mary R. Fey	Five Hundred Dollars ($500)
W. J. Forth	Four Hundred Dollars ($400)
Arthur J. Fritz	Twelve Hundred Dollars ($1200)
P. H. Gardner	Seven Thousand Dollars ($7000)
Oliver L. Gehant	Five Hundred Dollars ($500)
William George	Four Thousand, Three Hundred Dollars ($4,300)
Mrs. Mary H. Gibson	Three Hundred Dollars ($300)
The Glessner Company	Seventeen Thousand, Five Hundred Dollars ($17,500)
Fred G. Gordon	Five Hundred Dollars ($500)
Chester Graehling	Three Thousand Dollars ($3,000)
John A. Greenlee	Two Thousand Dollars ($2,000)
Thomas M. Greenlee	One Thousand Dollars ($1,000)
Edna L. Grummon	One Thousand, Five Hundred Dollars ($1,500)
Emma L. Grummon and Edna L. Grummon, jointly	One Thousand, Six Hundred Dollars ($1,600)
E. Bentley Hamilton	Two Thousand Dollars ($2,000)
Miss Fredericka A. Harbaugh	One Thousand Dollars ($1,000)
Harris Trust and Savings Bank, as executor of the Estate of Robert B. Andrews, deceased	Two Thousand Dollars ($2,000)
Miss Elizabeth B. Harvey	Two Hundred Dollars ($200)
E. Charles Harvey	Three Hundred Dollars ($300)
Hattie M. Hatheway	Two Thousand, Five Hundred Dollars ($2,500)
Harriet Hayward	Nine Thousand Dollars ($9,000)
Helen Oakes Head	Three Thousand Dollars ($3,000)
Ruth Heckman	Eight Hundred Dollars ($800)
Louis M. Hemrick	One Thousand Dollars ($1,000)
William R. Hemrick	One Thousand, Two Hundred Dollars ($1,200)

Name	Amount
Mrs. Janet Herbison	Five Hundred Dollars ($500)
Irwin W. Herrmann	One Thousand Dollars ($1,000)
Dr. E. E. Hill	One Thousand Dollars ($1,000)
Florence Noble Hopkins	Five Hundred Dollars ($500)
Clement W. Hulit	Seven Hundred Dollars ($700)
Jessie Mable Hummel	Four Hundred Dollars ($400)
Carlton C. Hunt	One Thousand, Five Hundred Dollars ($1,500)
George S. Hyde	Eight Hundred Dollars ($800)
Charles H. Ireland	Four Hundred Dollars ($400)
Fred Jackson	Two Thousand Dollars ($2,000)
Charles P. Jacobson	One Thousand Dollars ($1,000)
Jensen and Nelson	Eight Hundred Dollars ($800)

[fol. 39]

Mary Ada Johnson	One Thousand Dollars ($1,000)
Louise H. Keator	One Thousand Dollars ($1,000)
Miss Katherine Keenan	Six Hundred Dollars ($600)
Mary A. Keenan	Six Hundred Dollars ($600)
William T. Keenan	Six Hundred Dollars ($600)
Emily F. Kempshall	Five Thousand Dollars ($5,000)
John C. Klein	One Thousand, Five Hundred Dollars ($1,500)
William F. Klein	One Thousand, Five Hundred Dollars ($1,500)
Burdette R. Knappenberger	Three Thousand, Three Hundred Dollars ($3,300)
Frank N. Kreissl	Ten Thousand Dollars ($10,000)
Abraham L. Lanning	One Thousand, Five Hundred Dollars ($1,500)
LaSalle National Bank & Trust Company, Trustee for George Bennett, Margaret Thompson, Isabelle Anderson, D. H. Bennett, and Agnes Bennett, under Agreement dated November 19, 1931	One Thousand, Five Hundred Dollars ($1,500)
Mrs. Frances G. Lee	Five Thousand Dollars ($5,000)
John D. Lent	One Thousand Dollars ($1,000)
Morris Lewis	One Thousand, Five Hundred Dollars ($1,500)
Mrs. Helen Lindau	One Thousand Dollars ($1,000)
Elmer R. Lionberger	Two Thousand, Five Hundred Dollars ($2,500)
Walter I. Lionberger	One Thousand Dollars ($1,000)
Charles G. Little	Eight Thousand Dollars ($8,000)
John S. Little	Thirteen Thousand Dollars ($13,000)
Mrs. Kate Wells Lockwood	Four Thousand Dollars ($4,000)
Conrad H. Loebach	Three Hundred Dollars ($300)

Name	Amount
Mrs. Eva M. Longcor	One Thousand, Five Hundred Dollars ($1,500)
Arthur T. Loomis	Two Hundred Dollars ($200)
Elizabeth R. Loomis	Three Thousand, Nine Hundred Dollars ($3,900)
L. M. Loomis	Two Thousand, Six Hundred Dollars ($2,600)
Miss Margaret Loring	One Thousand, Four Hundred Dollars ($1,400)
Jesse Lowenhaupt	One Thousand Dollars ($1,000)
Frank Maas	Five Hundred Dollars ($500)
Thomas Mangion	One Thousand Dollars ($1,000)
[fol. 40]	
Harrison Mathewson	One Thousand, Four Hundred Dollars ($1,400)
John W. Mathewson	Eight Hundred Dollars ($800)
Milford McCammond	Seven Hundred Dollars ($700)
John M. McGowan	Four Hundred Dollars ($400)
C. H. McKenney	One Thousand Dollars ($1,000)
Mrs. Jennie S. Means	Five Thousand Dollars ($5,000)
Mrs. S. R. Meck	One Thousand Dollars ($1,000)
Arthur Meeker	Fifteen Hundred Dollars ($1500)
Gertrude M. Meredith	Eight Hundred Dollars ($800)
Kate S. Meserve	Ten Thousand Dollars ($10,000)
Frank W. Meyer	One Thousand Dollars ($1,000)
Miss Mary B. Meyers	One Hundred Dollars ($100)
Henry Clay Miller	Two Thousand Dollars ($2,000)
Lucille Carr Miller	Two Thousand Dollars ($2,000)
Charles L. Morris	Five Hundred Dollars ($500)
George Murray	Two Thousand Dollars ($2,000)
George P. Nauman	Eight Hundred Dollars ($800)
Robert H. Nauman	Eight Hundred Dollars ($800)
Charles G. Nelson	One Thousand, One Hundred Dollars ($1,100)
Henry T. Noble	One Thousand, Five Hundred Dollars ($1,500)
George North	One Thousand, Two Hundred Dollars ($1,200)
Catherine O'Brien	One Thousand Dollars ($1,000)
Fred L. Ochsner	One Thousand Dollars ($1,000)
Katherine Ochsner, as guardian of Carroll A. Ochsner	Six Hundred Dollars ($600)
Katherine Ochsner, as guardian of Cecil S. Ochsner	Five Hundred Dollars ($500)
Charles Ohaven	Five Hundred Dollars ($500)
Sadie C. Parker	One Thousand Dollars ($1,000)
Mrs. Ivah W. Pearson	One Hundred Four Thousand, Dollars ($104,000)
C. E. Peck	One Thousand, Five Hundred Dollars ($1,500)
Perry J. Peters	Nine Hundred Dollars ($900)

Name	Amount
Mrs. Lela Lowe Pierson	Four Hundred Dollars ($400)
Buenaventura H. Portuondo	Two Hundred Dollars ($200)
Dean Reeves	Five Hundred Dollars ($500)
Mrs. Edith M. Reynolds	Three Hundred Dollars ($300)
Mrs. Elba K. Reynolds	One Thousand, One Hundred Dollars ($1,100)
James B. Reynolds	One Thousand Dollars ($1,000)
Herbert H. Riddle	Three Thousand, Five Hundred Dollars ($3,500)
Miss Mary A. Riddle (now Mrs. Alexander Greene)	Two Thousand, Five Hundred Dollars ($2,500)

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Louis C. Rinker	One Thousand, Six Hundred Dollars ($1,600)
Mae S. Rosbrook	One Thousand Dollars ($1,000)
Miss Emilie Rose	One Thousand, One Hundred Dollars ($1,100)
Mildred Morgan Roth	Three Thousand Dollars ($3,000)
Miss Helen R. Ryan	One Thousand Dollars ($1,000)
Charles F. Sager	Five Thousand Dollars ($5,000)
Charles E. Sager, Administrator of the Estate of Thomas G. Sager	One Thousand, Three Hundred Dollars ($1,300)
Miss Mabel A. Sawyer	One Thousand Dollars ($1,000)
Charles Scheidecker	Four Thousand Dollars ($4,000)
Edward L. Scheidenhelm	Five Thousand Dollars ($5,000)
W. T. Schell	Seven Hundred Dollars ($700)
Mrs. Corinne H. Schiller	One Thousand Dollars ($1,000)
Philip J. Schmidt	Eight Hundred Dollars ($800)
Daisy Schoeppel	Seven Hundred Dollars ($700)
Rosetta Schwerer	Four Hundred Dollars ($400)
W. T. Scudder	Two Thousand Dollars ($2,000)
L. T. Seales	One Thousand, Seven Hundred Dollars ($1,700)
Otto Sendlinger	Five Hundred Dollars ($500)
G. W. Shanks	Four Thousand, Five Hundred Dollars ($4,500)
Gertrude L. Curtis Shattuck	Three Hundred Dollars ($300)
W. R. Shumaker	Five Thousand, Two Hundred Dollars ($5,200)
Mrs. Grace Meyers Silverman	Two Hundred Dollars ($200)
Frank Simek	Two Thousand, Five Hundred lars ($2,500)
Horace F. Simmons	One Thousand, Seven Hundred Dollars ($1,700)
Harry A. Slaybaugh	Two Hundred Dollars ($200)
Clyde Smith	Three Thousand, Five Hundred Dollars ($3,500)
Mrs. Nellie J. Smith	Five Hundred Dollars ($500)
George L. Snively	One Thousand Dollars ($1,000)

Name	Amount
Mrs. Mary Williams Sparrow	Three Thousand, Six Hundred Dollars ($3,600)
Frank E. Spink and Carrie Spink, jointly	Nine Hundred Dollars ($900)
Mrs. Olive B. Stickle	One Thousand Dollars ($1,000)
Alexander J. Strom	Two Hundred Dollars ($200)
Frank H. Sutton	Four Hundred Dollars ($400)
Maria West Sutton	Six Hundred Dollars ($600)
James E. Thiell	Five Hundred Dollars ($500)
Frederick B. Townsend	Three Thousand, Four Hundred Dollars ($3,400)

[fol. 42]

Ernest Tripp	One Thousand Dollars ($1,000)
Laura B. Tyler	Five Hundred Dollars ($500)
William B. Tyler	Three Thousand Dollars ($3,000)
Harry Typer	Two Thousand, Five Hundred Dollars ($2,500)
James A. Walker	One Thousand Dollars ($1,000)
James Wallace	Two Thousand Dollars ($2,000)
M. Ruth Wallace	One Thousand, Seven Hundred Dollars ($1,700)
Arthur Walter	One Thousand Dollars ($1,000)
Ferd Eliel Wertheim	Three Hundred Dollars ($300)
E. C. Wetzel	Eight Hundred Dollars ($800)
Thomas Wickens	Two Thousand Dollars ($2,000)
Edward A. Wilcox	Three Thousand, One Hundred Dollars ($3,100)
Howard L. Willette	Two Thousand Dollars ($2,000)
Robert L. Williams	Six Hundred Dollars ($600)
M. J. Wormley	Two Thousand Dollars ($2,000)
Alex Wylie	One Thousand, Two Hundred Dollars ($1,200)
Charles A. Zeigler	Seven Hundred Dollars ($700)

8. It is further ordered, adjudged and decreed That unless the above named defendants pay the amounts of their respective assessments, as above set forth, within forty-five (45) days from this date, then at the request of plaintiffs or their counsel, an execution shall issue for the enforcement of the payment thereof, as in cases at law.

9. It is further ordered adjudged and decreed That the Receiver herein shall cause notice to be published once each week for four successive weeks in the Chicago Daily Law Bulletin, a secular newspaper of general circulation in the State of Illinois, to the effect that all persons having claims as creditors of the Chicago Joint Stock Land Bank shall be permitted to file their intervening petitions in this proceeding within a period of three months from the date of the

first publication of such notice; and all such claimants shall have such period within which to intervene herein, and to make proof of their claims before the Receiver herein, failing to do which, such creditors shall have no claim against the fund collected herein.

[fol. 43] 10. It is further ordered, adjudged and decreed That the Receiver herein be and he is hereby authorized to collect from any or all of the stockholders of said Bank the assessments hereby levied against such stockholders, whether such stockholders be parties to this suit or not, and whether such stockholders be residents of Illinois, or reside elsewhere. And upon payment in full of any such assessments to the Receiver herein, such Receiver is hereby authorized to give full discharge and acquittance to any stockholder thus making payment.

11. It is further ordered, adjudged and decreed That the Court reserves jurisdiction herein against stockholders, or against persons liable as stockholders, who are not parties hereto, or who have not been served with process herein, and upon discovery by plaintiffs or their counsel of any such stockholders, or persons liable as such, plaintiffs may, at any time, apply to this Court for further relief in respect thereto.

12. It is further ordered, adjudged and decreed That the Court reserves jurisdiction as to all questions which may arise concerning the validity of claims filed herein by intervenors, concerning the application and distribution of moneys collected by the receiver herein, and concerning the settlement of the account of the Receiver, his discharge, and the amount to be allowed the Receiver and counsel for plaintiffs, and also concerning the compromise by the Receiver herein of doubtful claims, or of claims against stockholders who are of doubtful solvency.

13. It is further ordered, adjudged and decreed That the court costs herein, including the fee of the Master, be paid by the Receiver herein out of the funds collected from the stockholders; and upon supplemental petition and order, said Receiver, from such fund, is authorized to reimburse himself and the plaintiffs herein, and their counsel, for all disbursements made by them, or any of them, on account of

[fol. 44] costs and expenses incurred in connection with the prosecution of this litigation.

Enter, this 5th day of August, A. D. 1935.

Barnes, Judge of the District Court of the United States, For the Northern District of Illinois, Eastern Division.

[fols. 45-46] UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

I, Henry W. Freeman, Clerk of the United States District Court in and for the Northern District of Illinois, do hereby certify that the annexed and foregoing is a true and full copy of the original Order entered August 5th, A. D. 1935, in the matter of W. E. Brusselback, et al., complainants, vs. Chicago Joint Stock Land Bank, a corporation, et al., defendants, In Equity No. 12303, now remaining among the records of the said Court in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Chicago, this — day of ——, A. D. 1935.

—— ——, Clerk.

[fol. 47] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed September 14, 1935

Now come the defendants, Jacob A. Oneth, James M. Irvin as Administrator of the estate of Obed W. Irvin, deceased, Miriam Mathiot Brown, Katherine G. Mathiot, L. Dale Dorney and Emma M. Wiedenbein and move the court to dismiss the Bill of Complaint herein for the following reasons:

1. The Bill of Complaint does not state facts sufficient to constitute a valid cause of action in equity.

2. There is misjoinder of defendants and causes of action not affecting all parties.

3. As to the defendants, Jacob A. Oneth, James M. Irvin as Administrator of the estate of Obed W. Irvin, deceased, Miriam Mathiot Brown, Katherine G. Mathiot and L. Dale Dorney it is apparent on the face of the Bill that this court

has no jurisdiction of the subject matter of the action, as the matter in controversy with respect to each of said defendants does not exceed Three Thousand ($3,000.00) Dollars exclusive of interest and costs.

R. K. Landis, Irvin G. Bieser, Solicitors for said Defendants, Jacob A. Oneth, James M. Irvin, as Administrator of the estate of Obed W. Irvin, deceased, Miriam Mathiot Brown, Katherine G. Mathiot, L. Dale Dorney and Emma M. Wiedenbein. McMahon, Corwin, Landis & Markham, 11 West Monument Avenue, Dayton, Ohio.

[fol. 48] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed September 14, 1935

Now comes the Defendant, Gladys L. Smith, and respectively moves the Court to dismiss the Bill of Complaint against her heretofore filed herein for the reasons that:

First. Said Bill is insufficient in fact to constitute a valid cause of action in equity.

Second. Said Bill shows upon its face that said Defendant, Gladys L. Smith, owns only ten (10) shares of stock of said the Chicago Joint Stock Land Bank of Chicago. Said Defendant, therefore, moves the Court to dismiss her as Party Defendant to this Bill, because she owns less than thirty-one (31) shares of said stock, this Court not having jurisdiction as to her.

Pickrel, Schaeffer, Harshman & Young, Solicitors for said Defendants.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed September 16, 1935

Now comes the Defendant, Zola B. Horrell, and respectfully moves the Court to dismiss the Bill of Complaint heretofore filed herein for the reason that:

First. Said Bill is insufficient in fact to constitute a valid cause of action in equity.

Pickrel, Schaeffer, Harshman & Young, Solicitors for the Defendant.

[fol. 49] In United States District Court

Motion to Dismiss—Filed September 17, 1935

Sirs:

Please Take Notice that the undersigned will move this Court for an order to dismiss the action against Alice Jane Russam on the 7th day of October, 1935, at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, at the Post Office Building in Dayton, Ohio.

Yours etc., Wysong, Patricoff & Lautenburg, Solicitors for Defendant.

To Legler & Murray, Plaintiff's Solicitors, Frank H. Rickett, Clerk of the Court.

Copy received: Legler & Murray, Sept. 17, 1935.

In United States District Court

Motion of John D. Wachman, Defendant, to Dismiss—Filed September 17, 1935

Now comes the defendant, John D. Wachman, by his counsel, and moves the Court to dismiss this defendant from this cause, on the following grounds:

I. There is a mis-joinder of parties defendant.

II. The court in which this suit is brought has not jurisdiction over the defendant.

III. The defendant is a resident of and was served in the City of Cincinnati, Hamilton County, Ohio, and suit, if [fol. 50] any lies, should have been filed in the United States District Court for the Southern District of Ohio, Western Division, at Cincinnati, Ohio, instead of at Dayton, Ohio.

IV. Suit against this defendant, if any lies, is not properly cognizable in equity, but only at law.

V. Petition does not state facts sufficient to constitute a cause of action against this defendant.

Paxton & Seasongood, Attorneys for Defendant, John D. Wachman.

IN UNITED STATES DISTRICT COURT

MOTION OF DEFENDANT LULU NIXON TO DISMISS THE BILL HEREIN—Filed September 23, 1935

And now comes Lulu Nixon, one of the Defendants herein and moves the Court to dismiss the bill filed in this cause, because said bill does not state any matter of equity entitling plaintiffs to the relief prayed for, nor are the facts as stated sufficient to entitle plaintiffs to any relief against this defendant.

Wherefore Defendant, Lulu Nixon, prays the judgment of this Court whether she shall further answer, and that she be dismissed with her costs.

William H. Vodrey, Attorney for Defendant, Lulu Nixon.

[fol. 51] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed September 24, 1935

Now comes the defendants, Emma C. Cline, Nelle Dingledine and Lewis D. Riegle and on the records, pleadings and files in this cause, moves the Court to dismiss the Bill in Equity herein filed upon the following grounds, to-wit:

1. That it appears on the face of the said Bill in Equity that this Court has no jurisdiction of the defendants herein for the reason that the plaintiffs herein have an adequate remedy at law.

2. That there is a mis-joinder of parties defendant in said Bill for the reason that the liability of said defendants is several and not joint.

3. That it appears on the face of said Bill, by Plaintiffs' own showing, that they are not entitled to relief nor is either of them entitled to the relief prayed for by this Bill

against these defendants for the reason that the amount in controversy is less than Three Thousand Dollars.

4. That said Bill is in derogation of rights granted these defendants by the Fifth Amendment to the Constitution of the United States in that it seeks to deprive these defendants of trial by jury and to deprive them of property without due process of law.

Wherefore, and for divers and other good reasons of objection appearing on the face of said Bill, these defendants pray judgment of this Honorable Court whether they shall be compelled to make further or any answer to said Bill, and they humbly pray to be hence dismissed with their costs in this behalf sustained.

James E. Thomas, Attorney for Emma C. Cline, Nelle Dingledine and Lewis D. Riegle, Defendants.

[fol. 52] IN UNITED STATES DISTRICT COURT

MOTION OF GEORGIANA DYE MALONE AND THEODORE C. DYE—Filed September 24, 1935

Now comes the Defendants, Georgiana Dye Malone and Theodore C. Dye, and moves this Honorable Court as follows:

1. Appearing specially for the purpose of this Motion only, not entering their appearance generally and protesting the jurisdiction of this Honorable Court over the Defendants, moves to quash the service of the Subpoena in equity upon these Defendants for the reason that this Court has no jurisdiction over their person.

2. Appearing specially for the purpose of this Motion only, not entering their appearance generally and protesting the jurisdiction of this Honorable Court over the Defendants, moves to dismiss the Bill of Complaint herein for the reason that upon the face of the said Bill this Court is without jurisdiction.

Ozias & Ozias, W. S. Rhotehamel, Attorneys for Defendants, Georgiana Dye Malone and Theodore C. Dye.

Filed within rule: Legler & Murray, Attorneys for Plaintiffs.

In United States District Court

Motion of J. L. P. Hannaford and Estella K. Buche to Dismiss—Filed September 25, 1935

Come now J. L. P. Hannaford and Estella K. Buche, defendants herein, and move the Court to dismiss the Bill of Complaint filed herein, for the following reasons:

1. Said bill does not state sufficient facts to constitute a valid cause of action in equity against said defendants.

[fol. 53] 2. The amount in controversy between plaintiffs and each of the defendants is less than $3,000.00.

Joseph Lemkuhl, 704 First Natl. Bank Bldg., Cincinnati, Ohio, Attorney for Defendants.

Notice

Messrs. Legler & Murray, Attorneys for Plaintiffs, Dayton, Ohio:

Please take notice that I will present the foregoing motion to dismiss, copy of which is enclosed, to the court on Monday, November 4, 1935, at 10:30 A. M.

Joseph Lemkuhl, Attorney for Defendants, J. L. P. Hannaford and Estella K. Buche.

In United States District Court

Motion of Defendant, Jessie B. Rupp, to Dismiss Bill—Filed September 25, 1935

The defendant, Jessie B. Rupp, by her counsel, moves that the Bill herein be dismissed as to her, for the following reasons:

First. The amount sought by plaintiffs from this defendant is not within the jurisdictional requirement.

[fol. 54] Second. Said defendant is misjoined with numerous other defendants, against whom distinct causes of action are alleged and from whom different relief is sought.

C. A. Funkhouser, Byron Murr, Solicitors for Defendant.

Acknowledgment of Notice

Plaintiffs, by their counsel, acknowledge receipt of a copy of the foregoing Motion and Memorandum.

Legler & Murray, Solicitors for Plaintiffs.

In United States District Court

Motion of Defendant, George B. Armstrong to Dismiss the Bill Herein—Filed September 26, 1935

And now comes, George B. Armstrong, one of the defendants herein, and moves the Court to dismiss the bill filed in this cause because said bill does not state any matter of Equity entitling plaintiffs to the relief prayed for, nor are the facts as stated sufficient to entitle plaintiffs to any relief against this defendant.

Wherefore, defendant George B. Armstrong, prays the judgment of this Court whether he shall further answer, and that he be dismissed with his costs.

F. N. R. Redfern, Attorney for Defendant, George B. Armstrong.

[fol. 55] In United States District Court

Motion of Harold R. Gebhart to Dismiss Bill of Complaint—Filed September 26, 1935

Now comes the Defendant Harold R. Gebhart and moves this Honorable Court as follows:

1. Appearing specially for the purpose of this Motion only, not entering his appearance generally and protesting the jurisdiction of this Honorable Court over the Defendant Gebhart, moves to quash the service of the Subpœna in equity upon this Defendant for the reason that this Court has no jurisdiction over his person.

2. Appearing specially for the purpose of this Motion only, not entering his appearance generally and protesting the jurisdiction of this Honorable Court over the Defendant Gebhart, moves to dismiss the Bill of Complaint herein

for the reason that upon the face of the said Bill this Court is without jurisdiction.

E. H. & W. B. Turner, Attorneys for the Defendant, Harold R. Gebhart.

Entry

Filed within rule.

Correct: Legler & Murray, Attorneys for the Plaintiff: E. H. & W. B. Turner, Attorneys for the Defendant, Harold R. Gebhart.

[fol. 56] In United States District Court

Motion to Dismiss—Filed September 27, 1935

Now comes defendant, Charles B. Beckel, and moves the Court to dismiss such defendant from this case on the following grounds:

1. There is a misjoinder of parties;

2. An action against this defendant, if any lies, is not properly brought in equity, but can only be brought at law; and

3. The petition herein does not state facts sufficient to constitute a cause of action against this defendant.

Harry L. Munger, Eugene G. Kennedy, Attorneys for Defendant, Charles B. Beckel.

In United States District Court

Motion to Dismiss—Filed September 28, 1935

Now comes the defendant, C. H. Loeffler, and moves that plaintiffs' petition be dismissed, and that this defendant be permitted to go hence without day for the following reasons:

1. That this defendant was not a party to the proceedings in Illinois, or to any other proceeding for the determination of the necessity of assessing the stockholders of said Bank.

2. That said petition shows on its face that the amount claimed against this defendant is less than Three Thousand Dollars ($3,000.00), and hence this action as to this defendant is not within the jurisdiction of this court.

[fol. 57] 3. The petition does not constitute a valid cause of action in equity.

4. There is a misjoinder of parties defendant, inasmuch as the liability sought to be enjoined is several and not joint.

C. H. Loeffler, Defendant, by H. N. & H. W. Lilley, His Attorneys.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed September 28, 1935

Now comes the defendant, Albert J. Berberich, and moves that plaintiffs' petition be dismissed, and that this defendant be permitted to go hence without day for the following reasons:

1. That this defendant was not a party to the proceedings in Illinois, or to any other proceeding for the determination of the necessity of assessing the stockholders of said Bank.

2. That said petition shows on its face that the amount claimed against this defendant is less than Three Thousand Dollars ($3,000.00), and hence this action as to this defendant is not within the jurisdiction of this Court.

3. The petition does not constitute a valid cause of action in equity.

4. There is a misjoinder of parties defendant, inasmuch as the liability sought to be enjoined is several and not joint.

Albert J. Berberich, Defendant, by H. N. & H. W. Lilley, His Attorneys.

[fol. 58] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed September 30, 1935

Now comes the defendant, Elmer B. Hoyle, and moves that plaintiffs' petition be dismissed, and that this defendant be permitted to go hence without day for the following reasons:

1. That this defendant was not a party to the proceedings in Illinois, or to any other proceeding for the determination of the necessity of assessing the stockholders of said Bank.

2. That said petition shows on its face that the amount claimed against this defendant is less than Three Thousand Dollars ($3,000.00), and hence this action as to this defendant is not within the jurisdiction of this court.

3. The petition does not constitute a valid cause of action in equity.

4. There is a misjoinder of parties defendant, inasmuch as the liability sought to be enjoined is several and not joint.

Elmer B. Hoyle, Defendant, by H. N. & H. W. Lilley, His Attorneys.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed October 1, 1935

Now comes William D. Harr, one of the defendants herein, and appearing specially for the purposes of this motion only, not entering his appearance generally, and protesting the jurisdiction of this Court over him, moves the Court to dismiss the Bill of Complaint as to him for the following reasons, towit:

[fol. 59] First. Said Bill of Complaint does not state facts sufficient to sustain a cause in equity against this defendant.

Second. The Bill of Complaint alleges ownership in this defendant of ten shares of the stock of the Chicago Joint

Stock Land Bank, of an alleged par value of One Hundred Dollars each, making a total par value of One Thousand Dollars, the amount claimed against this defendant, which is less than the amount necessary to confer jurisdiction.

William D. Haar, by J. C. Fullerton, Jr., Attorney.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed October 1, 1935

Now comes Margaret A. Ross and says that she is the duly qualified and acting guardian of John W. Brown, an incompetent person, by virtue of an order of the Probate Court of Miami County, Ohio.

Said guardian moves that plaintiffs' petition be dismissed, and that this defendant be permitted to go hence without day for the following reasons:

1. That this defendant was not a party to the proceedings in Illinois, or to any other proceeding for the determination of the necessity of assessing the stockholders of said Bank.

2. That said petition shows on its face that the amount claimed against this defendant is less than Three Thousand Dollars ($3,000.00), and hence this action as to this defendant is not within the jurisdiction of this Court.

3. The petition does not constitute a valid cause of action in equity.

[fol. 60] 4. There is a misjoinder of parties defendant, inasmuch as the liability sought to be enjoined is several and not joint.

Margaret A. Ross, Guardian of John W. Brown, an Incompetent Person, by H. N. & H. W. Lilley, Her Attorneys.

Filed within rule. Legler & Murray, Attorneys for Plaintiff.

October 1, 1935.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed October 1, 1935

Now comes the defendant, Charles A. Miller, and respectfully moves the Court to dismiss the Bill of Complaint heretofore filed herein for the reasons that:

First. Said Bill is insufficient in fact to constitute a valid cause of action in equity.

Second. Said Bill shows upon its face, and this defendant represents to the Court, that the person or persons entitled to collect the payment of the assessment heretofore made against the stockholders of the Chicago Joint Stock Land Bank of Chicago by the United States District Court for the Northern District of Illinois, Eastern Division, have an adequate and complete remedy at law therefor.

Said defendant further moves the Court to dismiss as parties defendant to this Bill all those persons who are alleged to have held less than thirty-one shares of the stock of Chicago Joint Stock Land Bank, for the reason that this Court is without jurisdiction as to such defendants.

R. E. Cowden, F. D. Schnacke, Solicitors for Defendant.

[fol. 61] IN UNITED STATES DISTRICT COURT

MOTION OF DEFENDANT, ROBERT F. STOEHR, JR., TO DISMISS BILL—Filed October 4, 1935

The defendant, Robert F. Stoehr, Jr., by his counsel, moves that the Bill herein be dismissed as to him, for the following reasons:

First. The amount sought by plaintiffs from this defendant is not within the jurisdictional requirement.

Second. Said defendant is misjoined with numerous other defendants, against whom distinct causes of action are alleged and from whom different relief is sought.

C. A. Funkhouser, Byron Murr, Solicitors for Defendant.

Acknowledgment of Notice

Plaintiffs, by their counsel, acknowledge receipt of a copy of the foregoing Motion and Memorandum.

Legler & Murray, Solicitors for Plaintiffs.

In United States District Court

Motion of Peter W. Klinger—Filed October 5, 1935

1. The defendant, Peter W. Klinger, moves the Court to strike from the Bill of the plaintiffs herein all of paragraphs 9 and 10 thereof.

2. The said defendant moves the Court to dismiss the Bill filed in this case because said bill does not state any matter of equity entitling plaintiffs to the relief prayed for.

[fol. 62] Wherefore, defendant prays the judgment of this Court whether he shall further answer to the portion of the Bill which he asks shall be stricken or to the Bill as an entirety, and that he be dismissed with his costs.

W. S. McConnaughey, Harold F. Demann, Counsel for Peter W. Klinger.

In United States District Court

Motion to Dismiss Bill of Complaint—Filed October 9, 1935

Now comes the defendants, Karl S. Meuche and Florence E. Meuche, and move the Court to dismiss the Bill of Complaint herein for the following reasons:

1. The Bill of Complaint does not state facts sufficient to constitute a valid cause of action in Equity.

2. There is a misjoinder of defendants and causes of action not affecting all parties.

3. The Court has no jurisdiction of the subject matter of the action, as the matter in controversy with respect to this defendant does not exceed Three Thousand ($3,000.00) Dollars exclusive of interest and costs.

Clement V. Jacobs, Solicitor for Defendants, Karl S. Meuche, and Florence E. Meuche.

[fol. 63] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS BILL OF COMPLAINT—Filed October 9, 1935

Now comes the defendant, Delmar G. Ubersax, and moves the Court to dismiss the Bill of Complaint herein for the following reasons:

1. The Bill of Complaint does not state facts sufficient to constitute a valid cause of action in Equity.

2. There is a misjoinder of defendants and causes of action not affecting all parties.

Clement V. Jacobs, Solicitor for Defendant, Delmar G. Ubersax.

IN UNITED STATES DISTRICT COURT

MOTION OF NICHOLAS J. KUNTZ TO DISMISS—Filed October 11, 1935

Now comes the Defendant, Nicholas J. Kuntz, and moves the Court that he be dismissed as a Defendant in the above entitled cause, for the following reasons, to-wit:

1. That the facts set out in the Petition do not constitute a valid cause of action in equity.

2. That there is a misjoinder of parties defendant, inasmuch as the liability sought to be paid is several and not joint.

3. That Plaintiffs have an adequate and complete remedy at law.

Hollencamp & Lair, Solicitors for said Defendant.

[fol. 64] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed October 14, 1935

The defendant, Mrs. William Lukaswitz, Jr., by her counsel, moves that the bill herein be dismissed as against her for the following reasons:

First. There is a misjoinder of parties defendant inasmuch as the liability sought to be enforced is several and not joint.

Second. That said petition shows on its face that the amount claimed against this defendant is less than $3,000.00 and since so far as this action pertains as against this defendant, the Court is without jurisdiction.

Third. That said bill is in derrogation of the rights granted this defendant by the Fifth Amendment to the Constitution of the United States in that it seeks to deprive these defendants of trial by Jury as well as to deprive them of property without due process of law.

Horace J. Boesch, Counsel for Mrs. William Lukaswitz, Jr.

IN UNITED STATES DISTRICT COURT

MOTION OF H. C. KEVE—Filed October 15, 1935

Now comes the Defendant, H. C. Keve and moves this Honorable Court as follows:

1. Appearing specially for the purpose of this Motion only, not entering his appearance generally and protesting the jurisdiction of this Honorable Court over the Defendant, moves to quash the service of the Subpœna in equity upon this Defendant for the reason that this Court has no jurisdiction over his person.

[fol. 65] 2. Appearing specially for the purpose of this Motion only, not entering his appearance generally and protesting the jurisdiction of this Honorable Court over the Defendant, moves to dismiss the Bill of Complaint herein for the reason that upon the face of the said Bill this Court is without jurisdiction.

H. L. Ferneding, Attorney for the Defendant, H. C. Keve.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed October 23, 1935

Now comes Daniel Nevins, as Executor of the Estate of F. C. Gray, deceased, and for the purpose of this Motion

only, moves the Court to dismiss the bill filed herein against him, as such Executor, for the following reasons:

First. That the amount sought by Plaintiffs from this Defendant is not within the jurisdictional requirements.

Second. That there is a misjoinder of Defendants. This Defendant is joined with others, against whom distinct causes of action are alleged and from whom different relief is sought.

Daniel Nevins, Attorney.

[fol. 66] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed October 23, 1935

Now comes defendant, Frank H. Herbst, as Executor of the will of William E. Herbst, deceased, and moves the Court to dismiss such defendant from this case on the following grounds:

1. There is a misjoinder of parties.

2. An action against this defendant, if any lies, is not properly brought in equity, but can only be brought at law; and

3. The petition herein does not state facts sufficient to constitute a cause of action against this defendant.

Harry L. Munger, Eugene G. Kennedy, Attorneys for Defendant, Frank H. Herbst, as Executor of the Will of William E. Herbst, Deceased.

IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed October 26, 1935

Comes now C. J. Mattern as Executor of the Estate of R. Otto Baumann, deceased, and hereby enters his appearance herein for the purpose of this Motion alone, and represents to the Court that R. Otto Baumann died on the 5th day of February, 1935; that he is the duly appointed, qualified and acting executor of the estate of said

R. Otto Baumann, deceased, under and by virtue of the provisions of the last will and testament of said R. Otto Baumann, deceased and by appointment of the Probate Court of Montgomery County, Ohio, on the 27th day of [fol. 67] February, A. D. 1935; that the Probate Court of Montgomery County, Ohio is a Court of record of the State of Ohio and as such Court of record took jurisdiction of all matters pertaining to the administration of said estate on the 27th day of February A. D. 1935; that said estate is now in the process of administration under the laws of the State of Ohio and under the orders of said Court; that plaintiffs herein have not filed a claim with said executor setting forth what, if any, amount is due them from said estate as provided by the laws of the State of Ohio; that a Court of Record of the State of Ohio obtained jurisdiction of the subject matter of this action prior to the filing herein of the amendment to the Bill in Equity.

Wherefore, the defendant, C. J. Mattern as Executor of the Estate of R. Otto Baumann, deceased, moves the Court to dismiss the Amendment to the Bill in Equity heretofore filed herein, in so far as same is directed against him, for want of jurisdiction, and for his costs in this behalf incurred.

C. J. Mattern, Executor of the Estate of R. Otto Baumann, Deceased. R. A. Argabright, Attorney for Defendant.

IN UNITED STATES DISTRICT COURT

AMENDMENT TO MOTION TO DISMISS BILL OF COMPLAINT—Filed November 4, 1935

Now come the defendants, The Western Securities Company, Mrs. Emma Coats, Henry E. Myers, L. Dale Dorney, Francis D. Schnacke and John Burlin Johnson, and as an amendment to their motion filed herein on September 13, 1935, respectfully move the Court to dismiss the Bill of [fol. 68] Complaint heretofore filed herein for the additional reason that the matter in controversy does not exceed, exclusive of interest and costs, the sum or value of Three Thousand Dollars ($3000.00), and this Court is therefore without jurisdiction.

Roy G. Fitzgerald, R. E. Cowden, F. D. Schnacke, Solicitors for Said Defendants.

Receipt of copy of above Amendment to Motion acknowledged.

November 4, 1935.

Legler & Murray, Attorneys for Plaintiffs.

IN UNITED STATES DISTRICT COURT

OBJECTIONS AND MOTION BY WESTERN SECURITIES COMPANY ET AL.—Filed November 4, 1935

1. The defendants, Western Securities Company, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman and Francis D. Schnacke, under leave of this Court, file these objections to the plaintiffs' amendment filed herein on or about October 7, 1935, to their original Bill, viz:

Said amendment is additional to, and not a substitute for, the original Bill, and offers additional allegations which relate solely to facts occurring before the filing of said original Bill, in violation of Equity Rules 19, 34 and 25.

[fol. 69] 2. Said defendants, in the alternative, move the Court to strike from the file said amendment on the same grounds set forth in the above objections thereto.

Roy G. Fitzgerald, R. E. Cowden, F. D. Schnacke,
Solicitors for said Defendants.

Receipt of copy of above Objections and Motion acknowledged.

November 4, 1935.

Legler & Murray, Attorneys for Plaintiffs.

IN UNITED STATES DISTRICT COURT

AMENDMENT TO MOTION TO DISMISS BILL OF COMPLAINT—Filed November 4, 1935

Now comes the defendant, Charles A. Miller, and as an amendment to his motion filed herein on October 1, 1935, respectfully moves the Court to dismiss the Bill of Complaint heretofore filed herein for the additional

reason that the matter in controversy does not exceed, exclusive of interest and costs, the sum or value of Three Thousand Dollars ($3000.00), and this Court is therefore without jurisdiction.

R. E. Cowden, F. D. Schnacke, Solicitors for said Defendants.

Receipt of copy of above Amendment to Motion acknowledged.

November 4, 1935.

Legler & Murray, Attorneys for Plaintiffs.

[fol. 70] IN UNITED STATES DISTRICT COURT

MOTION TO DISMISS—Filed November 4, 1935

Comes now Andrew J. Christopher, Executor of the Estate of Sallie Christopher, deceased, one of the defendants herein, and on the records, pleadings and files in said cause, and moves the Court to dismiss the Bill in Equity of the plaintiffs upon the following grounds, to-wit:

1. That it appears on the face of said Bill of Equity that said Bill is wholly without equity.

2. That it appears on the face of said Bill that this Court has no jurisdiction in the subject matter of this suit, and no jurisdiction to herein determine the same.

3. That it appears on the face of said Bill that there is a misjoinder of parties defendant herein, in that the liability of any of the defendants is not joint.

4. That it appears on the face of the Bill by plaintiffs' own showing, that they are not entitled to, nor either of them entitled to the relief prayed for by this Bill against the defendant, nor to any relief arising from facts alleged in said Bill.

5. That it appears on the face of said Bill that the same is ambiguous therein in each of said respects, and in that it does not state the full Decree of the Court in the United States District Court for the Northern District of Illinois, Eastern Division, upon which the Bill filed herein is predicated.

Wherefore, and for divers and other good reasons of objection appearing on the face of said Bill, this defendant prays judgment of this Honorable Court whether it shall be compelled to make further or any answer to said Bill, and it humbly prays to be hence dismissed with its costs in this behalf sustained.

Neal Hunter, A. P. Mercer, H. P. Williamson, Attorneys for Defendant, Andrew J. Christopher, Executor of the Estate of Sallie Christopher, Deceased.

[fol. 71] IN UNITED STATES DISTRICT COURT

MOTION OF MARY E. CLUNET TO STRIKE OUT PARTS OF PLAINTIFFS' AMENDMENT AND TO DISMISS SAID AMENDMENT—Filed November 4, 1935

Mary E. Clunet, named as a defendant, moves to strike out that part of plaintiffs' Amendment beginning with the words: "That Frances I. Parrott who is named as a defendant" and ending with the paragraph; for the reasons following:

1. Said Amendment attempts to make this defendant as executrix of the estate of said Frances I. Parrott a defendant herein, setting up against her an alleged cause of action which accrued (if at all) more than three years prior to commencement of suit, and which is barred by the provisions of the Ohio General Code, to-wit: Sections 10509-133, requiring that same be sued upon within two months after dispute or rejection, if then due, or within two months after becoming due, or be forever barred; and said Frances I. Parrott is alleged to have died on the 13th day of July 1934, and this defendant to have received letters testamentary as her executrix on the 19th day of said July; and under further provisions of said Ohio Code creditors were required to present their claims within four months after the executor's appointment (Section 10509-112); and no executor was to be held to answer to the suit of any creditor of the deceased unless it be commenced within two months after the expiration of nine months following his appointment (Section 10509-144); and said code provisions were in full force and effect during all the times hereinbefore noticed.

2. Said Amendment sets up against this defendant as said executrix a claim of debt which (if accruing at the time of the alleged decree) was non-existent at the time of death of the decedent named and was therefore not a debt of said decedent; and under the provisions of Ohio law an executor is required to pay only the debts of the decedent and certain other named expenses.

This defendant further moves to dismiss said Amendment as to her for the reasons stated.

Joseph W. Sharts, Attorney for Defendant, Mary E. Clunet.

Copy of Motion received November 4, 1935.

Legler & Murray, Attorneys for Plaintiffs.

[fol. 72] IN UNITED STATES DISTRICT COURT

ENTRY OVERRULING OBJECTIONS TO AMENDMENT TO BILL—Filed November 4, 1935

This matter came on to be heard upon objections to the amendment to the Bill filed October 7, 1935 and upon motions to strike same from the files and to strike out parts thereof by defendants was argued by counsel and submitted to the Court; whereupon the Court overrules such objections and motions to which defendants and each of them except. And the Court thereupon ordered that the amendment to the original Bill be considered and treated as an integral part of the original bill and that all motions to dismiss and all pleadings heretofore filed to the original bill shall be considered as directed to the original bill as so amended, to which ruling defendants severally except.

Dated and entered November 4, 1935.

Approved:

Nevin, Judge.

R. E. Cowden, Roy G. Fitzgerald, for Defendants. F. D. Schnacke, for Certain Defendants. Legler & Murray, Townley, Wild, Campbell & Clarke, (as to form only.)

IN UNITED STATES DISTRICT COURT

ENTRY DISMISSING BILL OF COMPLAINT—Filed November 5, 1935

This day this matter came on to be heard upon the motions, as amended, filed herein by various defendants to dismiss the Bill of Complaint and the amendment thereto, heretofore filed herein by the plaintiffs, and were argued by counsel and submitted to the Court.

[fol. 73] Upon consideration thereof the Court finds that said motions should be sustained for the reasons that said Bill as amended is insufficient to constitute a valid cause of action in equity; that the matter in controversy does not exceed, exclusive of interest and costs, the sum or value of Three Thousand Dollars ($3000.00), and that this Court is, therefore, without jurisdiction; and upon the grounds raised by all other motions.

It is, Therefore, Ordered that said motions be, and they hereby are, sustained and the Bill of Complaint herein is hereby ordered dismissed at plaintiffs' costs.

To all of which order and judgment of the Court said plaintiffs, by their counsel, except.

Nevin, U. S. District Judge.

Counsel for Plaintiffs have seen the above order and except thereto.

Townley, Wild, Campbell & Clark, Legler & Murray, Solicitors for Plaintiffs. Roy G. Fitzgerald, R. E. Cowden, F. D. Schnacke, Solicitors for Certain Defendants.

[fol. 74] IN UNITED STATES DISTRICT COURT

PETITION FOR APPEAL—Filed December 21, 1935

Plaintiffs, W. E. Brusselback and W. I. Bell, Stephen D. Forst, Edward N. Heinz, William P. Hoyt, J. Frank Lyman, William M. Watson, as Trustees of the Retirement Board of the Park Employees' Annuity and Benefit Fund of Chicago, believing themselves to be aggrieved by the final order of this Court made and entered on November 5, 1935, dismissing the Bill of Complaint as amended for the reason that the same is insufficient to constitute a

valid cause of action in equity; and that the matter in controversy does not exceed exclusive of interests and costs, the sum or the value of Three Thousand ($3,000.00) Dollars; and that the Court was therefore without jurisdiction and upon the grounds raised by all the motions of the various defendants herein, do hereby appeal therefrom to the Circuit Court of Appeals for the Sixth Circuit for the reasons specified in the assignment of errors, which is filed herewith, and they pray that this appeal may be allowed and that a transcript of record, proceedings and papers upon which said order was made be duly authenticated and sent to the Circuit Court of Appeals for the Sixth Circuit.

W. E. Brusselback and W. I. Bell, Edward N. Heinz, William P. Hoyt, J. Frank Lyman, William M. Watson, as Trustees of the Retirement Board of the Park Employees' Annuity and Benefit Fund of Chicago, by Morris Townley, J. Arthur Miller and Geo. R. Murray, Their Solicitors. Townley, Wild, Campbell & Clark, 33 N. LaSalle Street, Chicago, Illinois; Legler & Murray, 407 Callahan Bank Bldg., Dayton, Ohio, Of Counsel.

Notice

To the solicitors representing various defendants herein:

You will take notice that a Petition for Appeal will be presented *in open Court to the Hon.* R. R. Nevin, *Judge of* the United States Court for the Southern District of Ohio, [fol. 75] Western Division, on December 21st, 1935, at 10:30 A. M.

Service of the above notice and a copy of the petition received this 9th day of December, 1935, together with copy of Assignment of Errors.

Roy G. Fitzgerald, Solicitor for Western Securities Co., Emma Coats, Henry E. Myers, L. Dale Dorney, Francis D. Schnacke, John Burlin Johnson, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman, Mary E. Clunet, Virginia Gohn, Mabel F. Beane, Carl W. Beane, Charles A. Ford, Samantha B. Harter, John Wehrly, Pearl H. Wehrly, and Mary E. P. Clunet as Executrix of the Estate of Frances I. Parrott, Deceased. R. E. Cowden, F. D. Schnacke, Solicitors for Western Securities Co., Emma Coats, Henry E. Myers,

L. Dale Dorney, Francis D. Schnacke, John Burlin Johnson, Charles A. Miller, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman and Arbella R. Bimm. Neal Hunter, by H. P. Williamson, Solicitor for Andrew Christopher and Andrew Christopher, Executor of the Estate of Sallie Christopher, Dec'd. A. P. Mercer, H. P. Williamson, Solicitors for Andrew Christopher and Andrew Christopher, Executor of the Estate of Sallie Christopher, Dec'd., and Third National Bank, Executor Estate George W. Weimer, Dec'd. E. H. & W. B. Turner, Solicitors for Edward T. Turner and Wellmore B. Turner, Trustees under Will of Earl H. Turner, Dec'd., J. D. Artz and Harold R. Gebhardt. Joseph W. Sharts, Solicitor for Mary E. Clunet, Virginia Gohn, Mabel F. Beane, Carl W. Beane, Charles A. Ford, Samantha B. Harter, John Wehrly, Pearl H. Wehrly. Harry L. Munger, Eugene G. Kennedy, Solicitors for Frank H. Herbst, Executor of Estate of William E. Herbst, [fol. 76] Dec'd., and Charles B. Beckel. W. S. McConnaughey, Harold F. Demann, Solicitors for Peter W. Klinger. Clement V. Jacobs, Solicitor for Karl S. Meuche, Florence E. Meuche, Delmar G. Ubersax. C. A. Funkhouser, Byron Murr, Solicitors for Robert E. Stoehr, Jr., Jessie B. Rupp. Daniel Nevins, Solicitor for Daniel Nevins, Executor of Estate of F. C. Gray, Dec'd. Horace J. Boesch, Solicitor for Mrs. William Lukaswitz, Jr. Hollencamp & Lair, Solicitors for Nicholas J. Kuntz. H. L. Ferneding, Solicitor for H. C. Keve, and H. L. Ferneding, T. A. Ferneding and Marie F. Keve, Executors of Estate of E. J. Ferneding, Dec'd. Ozias & Ozias and W. S. Rhotehamel, Solicitors for Georgiana Dye Malone and Theodore C. Dye. Wysong, Patricoff & Lautenburg, Solicitors for Alice Jane Russum, and Dr. Gale E. Russum, Guardian ad litem for Alice Jane Russum. Pickrel, Schaeffer, Harshman & Young, Solicitors for Zola B. Horrell and Gladys L. Smith. R. K. Landis, Irvin G. Bieser, Solicitors for Jacob A. Oneth, James M. Irvin, Admr. of Estate of Obed W. Irvin, Dec'd., Miriam Mathiot Brown, Katherine G. Mathiot, L. Dale Dorney and Emma M.

Wiedenbein. John W. Ratchford, Solicitor for Charles Sucher Packing Co. Murphy, Murphy & Mayl, Solicitors for Lyda B. Wiggim, Mariana Wiggim and Florence Wiggim Crist. Carroll Sprigg, Solicitor for Edward T. Lingham and John [fol. 77] M. Sprigg, Gdn. ad litem. Carl L. Shuler, by R. H. & N. K. Brumbaugh, Solicitor for Rose Ryan. James & Coolidge, Solicitors for J. Elliott Peirce, Fannie H. Peirce and John E. Parrott. F. N. R. Redfern, Solicitor for George B. Armstrong. Paxton & Seasongood, Solicitors for John D. Wachman. William H. Vodrey, Solicitor for Lulu Nixon. F. R. Hoover, 33 No. High St., Columbus, Ohio, Solicitor for Hugh A. Baldwin. H. N. & H. W. Lilley, Solicitors for C. H. Loeffler, Albert J. Berberich, Elmer B. Hoyle, John W. Brown, Margaret A. Ross, Guardian for John W. Brown, an Incompetent. James E. Thomas, Solicitor for Emma C. Cline, Nelle Dingledine and Lewis D. Riegle. Grover C. Brown, Milton W. Buffington, Solicitors for Henry V. Butler, Robert W. Stevenson and Elizabeth C. H. Sanborn. Joseph Lemkuhl, Solicitor for J. L. P. Hannaford and Estella K. Buche. J. C. Fullerton, Jr., Solicitor for William D. Harr.

Copies served on Ralph A. Argabright and C. J. Mattern, Solicitors for C. J. Mattern, Executor of Estate of R. Otto Bauman, dec'd.

Geo. R. Murray, Solicitor for Plaintiffs.

Copies served on Leonard Blum and Harry Kaplan, Solicitors for Ruth Rauh Stern by registered mail, December 9, 1935.

Geo. R. Murray, Solicitor for Plaintiffs.

[fol. 78] IN UNITED STATES DISTRICT COURT

ENTRY ALLOWING APPEAL AND FIXING BOND—Filed December 21, 1935

The petition of complainants herein praying appeal from the final decree heretofore entered in this Court dismissing their bill of complaint, being now presented in open court,

It is hereby ordered that an appeal be allowed to the United States Circuit Court of Appeals for the Sixth Circuit as prayed for, and that a transcript of such part of the record and proceedings herein as the parties may by praecipe duly designate be transmitted, duly authenticated, to said United States Circuit Court of Appeals for the Sixth Circuit at Cincinnati, Ohio, in the manner provided by law.

It appearing to the court that the plaintiffs have on deposit with the Clerk as security for costs the sum of $323.75 after securing all costs which have accrued herein to date, the Clerk is ordered to take the sum of $250.00 from said amount so deposited by the plaintiffs and pay the same into the registry of this Court, said $250.00 not to be released until the further order of this court and said sum to be taken and accepted as good and sufficient security that the appellants shall prosecute their appeal to execution, if they fail to make their plea good, shall acknowledge all costs.

Done and ordered in open court at Dayton, Ohio, on this 21st day of December, 1935.

Nevin, District Judge.

IN UNITED STATES DISTRICT COURT

ASSIGNMENT OF ERRORS—Filed December 21, 1935

Now comes, W. E. Brukselback and W. I. Bell, Stephen D. Forst, Edward N. Heinz, William P. Hoyt, J. Frank Lyman, William W. Watson, as Trustees of the Retirement Board of the Park Employees' Annuity and Benefit Fund of Chicago, plaintiffs herein, by its solicitors, and having prayed an appeal from the decree entered in this cause on Novem- [fol. 79] ber 5, 1935, dismissing plaintiffs' bill heretofore filed in this cause for want of equity, respectfully show that said decree is erroneous and should be reversed and set aside, for the following reasons:

1. The Court erred separately in sustaining the several motions to dismiss the bill of complaint and the amendment thereto.

2. The Court erred in holding that said bill of complaint, and the amendment thereto, were insufficient to state or constitute a valid cause of action in equity.

3. The Court erred in holding that the matter in controversy does not exceed, exclusive of interest and costs, the sum or value of Three Thousand Dollars ($3,000.00).

4. The Court erred separately in dismissing the bill of complaint and the amendment thereto as against each of the defendants who filed a motion to dismiss.

5. The Court erred in dismissing the bill as to each of the defendants as against whom dismissal was ordered.

Wherefore, and in order that the foregoing Assignment of Errors may be and appear of record in this cause, W. E. Brusselback and W. I. Bell, Stephen D. Forst, Edward N. Heinz, William P. Hoyt, J. Frank Lyman, William M. Watson, as Trustees of the Retirement Board of the Park Employees' Annuity and Benefit Fund of Chicago, plaintiffs herein, present the same to this Court, and pray that such disposition may be made thereof as is in accordance with the law and the statutes of the United States in such case made and provided; that plaintiffs further pray that said final decree may be reversed and the District Court be directed to enter a decree in this cause in conformity with the prayer of the bill of complaint.

Dated at Dayton, Ohio, December 21st, 1935.

Morris Townley, J. Arthur Miller, Geo. R. Murray, Solicitors for Plaintiffs. Townley, Wild, Campbell & Clark, 33 N. LaSalle Street, Chicago, Illinois; Legler & Murray, 407 Callahan Bank Bldg., Dayton, Ohio, Of Counsel.

[fol. 80] IN UNITED STATES DISTRICT COURT

PRAECIPE FOR TRANSCRIPT OF RECORD—Filed December 27, 1935

To the Clerk of the United States District Court for the Southern District of Ohio, Western Division:

You are hereby requested to certify the Transcript of Record to be filed in the United States Circuit Court of Appeals for the Sixth Circuit, pursuant to an appeal from a Final Decree, herein allowed to the plaintiffs on the 21st day of December, 1935, and to include in such Transcript of Record the following papers:

1. Bill of Complaint.
2. Motion of plaintiffs for appointment of Receiver filed 9/13/35.
3. Motion of plaintiffs for leave to file amended bill filed 9/24/35.
4. Entry granting plaint-ffs leave to file amendment to bill, filed 10/7/35.
5. Amendment to Bill filed 10/7/35.
6. Motion of Andrew J. Christopher filed 9/13/35.
7. Motion of Third National Bank & Trust Co., Executor of the Estate of George W. Weimer, deceased, filed 9/13/35.
8. Motion of the Western Securities Company, Mrs. Emma Coats, Henry E. Myers, L. Dale Dorney, Francis D. Schnacke and John Burlin Johnson, filed 9/13/35.
9. Objections to Interrogatories and Motion to Dismiss of Robert E. Cowden, Francis D. Schnacke, Frank W. Nicholas and A. M. Zimmerman as incorporators and/or officers of the Western Securities Company, filed 9/13/35.
10. Motion of Lyda B. Wiggim, filed 9/14/35.
11. Motion of Mary E. Clunet, Virginia Gohn, Mabel F. Beane, Carl W. Beane and Mabel F. Beane named as joint tenants, Charles A. Ford, Samantha B. Harter, and John Wehrly and Pearl H. Wehrly named as joint tenants, filed 9/14/35.
12. Motion of The Chas. Sucher Packing Company, filed 9/14/35.
13. Motion of J. D. Artz, filed 9/14/35.
14. Motions of Edward T. Turner and Wellmore B. Turner as Trustees under the Will of Earl H. Turner, deceased, filed 9/14/35.

[fol. 81] 15. Motion of Jacob A. Oneth, James M. Irvin, as Administrator of the Estate of Obed W. Irvin, deceased, Miriam Mathiot Brown, Katherine G. Mathiot, L. Dale Dorney and Emma M. Wiedenbein, filed 9/14/35.

16. Motion of Gladys L. Smith, filed 9/14/35.
17. Motion of Zola B. Horrell, filed 9/16/35.
18. Notice of Motion to Dismiss of Alice Jane Russum, filed 9/17/35.
19. Motion of John D. Wachman, filed 9/18/35.
20. Motion of Lulu Nixon, filed 9/23/35.
21. Motion of Emma C. Cline, Nelle Dingledine and Lewis D. Riegle, filed 9/24/35.
22. Motion of Georgiana Dye Malone and Theodore G. Dye, filed 9/24/35.

23. Motion of J. L. P. Hannaford and Estella K. Buche, filed 9/25/35.

24. Motion of Jessie B. Rupp, filed 9/25/35.

25. Motion of George B. Armstrong, filed 9/26/35.

26. Motion of Harold R. Gebhart, filed 9/26/35.

27. Motion of Charles B. Beckel, filed 9/27/35.

28. Motion of C. H. Loeffler, filed 9/28/35.

29. Motion of Albert J. Berberich, filed 9/28/35.

30. Motion of Elmer B. Hoyle, filed 9/30/35.

31. Motion of William D. Harr, filed 10/1/35.

32. Motion of Margaret A. Ross, Guardian of John W. Brown, an incompetent person, filed 10/1/35.

33. Motion of Charles A. Miller, filed 10/1/35.

34. Motion of Robert F. Stoehr, Jr., filed 10/4/35.

35. Motion of Peter W. Klinger, filed 10/5/35.

36. Motion of Karl S. Meuche and Florence E. Meuche, filed 10/9/35.

37. Motion of Delmar G. Ubersax, filed 10/9/35.

38. Motion of Nicholas J. Kuntz, filed 10/11/35.

39. Motion of Mrs. William Lukaswitz, Jr., filed 10/14/35.

40. Motion of H. C. Keve, filed 10/15/35.

41. Motion of Daniel Nevins, as Executor of the Estate of F. C. Gray, deceased, filed 10/23/35.

42. Motion of Frank H. Herbst as Executor of the Will of William E. Herbst, deceased, filed 10/26/35.

[fol. 82] 43. Motion of C. J. Mattern as Executor of the Estate of R. Otto Baumann, deceased, filed 10/26/35.

44. Amendment to Motion of the Western Securities Company, Mrs. Emma Coats, Henry E. Myers, L. Dale Dorney, Francis D. Schnacke and John Burlin Johnson, field 11/4/35.

45. Objections and Motion of Western Securities Company, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman and Francis D. Schnacke, field 11/4/35.

46. Amendment to Motion of Charles A. Miller, filed 11/4/35.

47. Motion of Andrew J. Christopher, Executor of the Estate of Sallie Christopher, deceased, filed 11/4/35.

48. Motion of Mary E. Clunet to strike out parts of plaintiffs' Amendment and to Dismiss said Amendment, filed 11/4/35.

49. Entry overruling objections to amendment to bill, filed 11/4/35.

50. Entry dismissing Bill of Complaint at plaintiffs' costs, filed 11/5/35.

51. Petition for Appeal and Order allowing the same.

52. Assignment of Errors.

53. Notice of filing Petition for Appeal and Assignment of Errors together with acknowledgment of service.

54. Præcipe.

Morris Townley, J. Arthur Miller, Geo. R. Murray, Solicitors for Plaintiffs. Townley, Wild, Campbell & Clark, 33 N. LaSalle Street, Chicago, Illinois; Legler & Murray, 407 Callahan Bank Bldg., Dayton, Ohio, Of Counsel.

[fol. 83] Service of the Præcipe herein is hereby acknowledged, and copy of the same is received this 23rd day of December, 1935.

Roy G. Fitzgerald, Solicitor for Western Securities Co., Emma Coats, Henry E. Myers, L. Dale Dorney, Francis D. Schnacke, John Burlin Johnson, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman, Mary E. Clunet, Virginia Gohn, Mabel F. Beane, Carl W. Beane, Charles A. Ford, Samantha B. Harter, John Wehrly, Pearl H. Wehrly, and Mary E. P. Clunet as Executrix of the Estate of Frances I. Parrott, deceased. R. E. Cowden, F. D. Schnacke, Solicitors for Western Securities Co., Emma Coats, Henry E. Myers, L. Dale Dorney, Francis D. Schnacke, John Burlin Johnson, Charles A. Miller, Robert E. Cowden, Frank W. Nicholas, A. M. Zimmerman and Arbella R. Bimm. Neal Hunter, by H. P. Williamson, Solicitor for Andrew Christopher and Andrew Christopher, Executor of the Estate of Sallie Christopher, Dec'd. A. P. Mercer, H. P. Williamson, Solicitors for Andrew Christopher and Andrew Christopher, Executor of the Estate of Sallie Christopher, Dec'd., and Third National Bank, Executor Estate George W. Weimer, Dec'd. E. H. & W. B. Turner, Solicitors for Edward T. Turner and Wellmore B. Turner, Trustees under Will of Earl H. Turner, Dec'd., J. D. Artz and Harold R. Gebhart. Joseph W. Sharts, Solicitor for Mary E. Clunet, Virginia Gohn, Mabel F. Beane, Carl

W. Beane, Charles A. Ford, Samantha B. Harter, John Wehrly, Pearl H. Wehrly. Harry L. Munger, Eugene G. Kennedy, Solicitors for Frank H. Herbst, Executor of Estate of William E. Herbst, Dec'd., and Charles B. Beckel. W. S. McConnaughey, Harold F. Demann, Solicitors for Peter [fol. 84] W. Klinger. Clement V. Jacobs, Solicitor for Karl S. Meuche, Florence E. Meuche, Delmar G. Ubersax. C. A. Funkhouser, Byron Murr, Solicitors for Robert E. Stoehr, Jr., Jessie B. Rupp. Daniel Nevins, Solicitor for Daniel Nevins, Executor of Estate of F. C. Gray, Dec'd. Horace J. Boesch, Solicitor for Mrs. William Lukaswitz, Jr. Hollencamp & Lair, Solicitors for Nicholas J. Kuntz. H. L. Ferneding, Solicitor for H. C. Keve, and H. L. Ferneding, T. A. Ferneding and Marie F. Keve, Executors of Estate of E. J. Ferneding, Dec'd. Ozias & Ozias and W. S. Rhotehamel, Solicitors for Georgiana Dye Malone and Theodore C. Dye. Wysong, Patricoff & Lautenburg, Solicitors for Alice Jane Russum, and Dr. Gale E. Russum, Guardian ad litem for Alice Jane Russum. Pickrel, Schaeffer, Harshman & Young, Solicitors for Zolla B. Horrell and Gladys L. Smith. R. K. Landis, Irvin G. Bieser, Solicitors for Jacob A. Oneth, James M. Irvin, Admr. of Estate of Obed W. Irvin, Dec'd., Miriam Mathiot Brown, Katherine G. Mathiot, L. Dale Dorney and Emma M. Wiedenbein. John W. Ratchford, Solicitor for Charles Sucher Packing Co. Murphy, Murphy & Mayl, Solicitors for Lyda B. Wiggim, Mariana Wiggim and Florence Wiggim Crist. Carroll Sprigg, Solicitor for Edward T. Lingham and John M. Sprigg, Gdn. ad litem. Carl L. Shuler, by R. H. & N. K. Brumbaugh, Solicitor for Rose Ryan. James & [fol. 85] Coolidge, Solicitors for J. Elliott Peirce, Fannie H. Peirce and John E. Parrott. Paxton & Seasongood, Solicitors for John D. Wachman. William H. Vodrey, Solicitor for Lulu Nixon. F. R. Hoover, 33 No. High St., Columbus, Ohio, Solicitor for Hugh A. Baldwin. H. N. & H. W. Lilley, Solicitors for C. H. Loeffler, Albert J. Berberich, Elmer B. Hoyle, John W. Brown, Margaret A. Ross, Guardian for John W. Brown, an Incompetent.

James E. Thomas, Solicitor for Emma C. Cline, Nelle Dingledine and Lewis D. Riegle. Grover C. Brown, Milton W. Buffington, Solicitors for Henry V. Butler, Robert W. Stevenson and Elizabeth C. H. Sanborn. Joseph Lemkuhl, Solicitor for J. L. P. Hannaford and Estella K. Buche. J. C. Fullerton, Jr., Solicitor for William D. Harr.

Copy served on Ralph A. Argabright and C. J. Mattern, Solicitors for C. J. Mattern, Executor of Estate of R. Otto Bauman, Dec'd.

Geo. R. Murray, Solicitor for Plaintiffs.

Copy served F. N. R. Redfern, Solicitor for George B. Armstrong by registered mail, December 23, 1935.

Geo. R. Murray, Solicitor for Plaintiffs.

Copy served on Leonard Blum and Harry Kaplan, Solicitors for Ruth Rauh Stern by registered mail, December 9, 1935.

Geo. R. Murray, Solicitor for Plaintiffs.

[fol. 86] Clerk's certificate to foregoing transcript omitted in printing.

PROCEEDINGS IN THE

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SIXTH CIRCUIT

CAUSE ARGUED AND SUBMITTED

(Novemer 4, 1936—Before: HICKS, SIMONS and ALLEN, JJ.).

This cause is argued by J. A. Miller for Appellants and by R. G. Fitzgerald and F. Schnacke for Appellees and is submitted to the Court.

DECREE

(Filed December 15, 1936)

Appeal from the District Court of the United States for the Southern District of Ohio.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Southern District of Ohio, and was argued by counsel.

ON CONSIDERATION WHEREOF, It is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause be and the same is hereby reversed and the cause remanded for further proceedings consistent with the opinion of this court.

OPINION

(Filed December 15, 1936)

Before HICKS, SIMONS and ALLEN, Circuit Judges.

HICKS, Circuit Judge. The bill of complaint alleged: That plaintiffs were citizens and residents of Missouri and Illinois; that plaintiff, Brusselback, owned bonds of the Chicago Joint Stock Land Bank (created under the Federal Farm Loan Act, 39 Stat. 360, U. S. C. Tit. 12, §641) in the amount of $4,000.00 and that the remaining plaintiffs, as trustees, owned its bonds in the amount of $128,000.00; that certain defendants, citizens of Ohio, were stockholders of the bank; that certain others were incorporators and officers of the Western Securities Company, holding 759 shares of the stock of the bank; that the Western Securities Company was organized as a subterfuge through which the real owners of the shares of the bank, whose names were unknown, sought to escape their statutory liability; that plaintiffs as bondholders of the bank brought their suit as a class action on behalf of all other bondholders and creditors thereof; that the bank had a capital stock of the par value of four million dollars, divided into forty thousand shares of the par value of $100.00 each; that the shares were originally sold for approximately four million dollars in cash, which was paid into its treasury; that it was incorporated in 1917 and continued business until October 1, 1932; that it issued and sold its own bonds, having a face value of more than forty-two million dollars at par, or approximately par, and invested the proceeds principally in farm mortgages; that on October 1, 1932, it was declared insolvent by the Federal Farm Loan Board and its assets were turned over to a receiver who has since been engaged in their liquidation; that about October 1, 1932, certain bondholders of the bank filed their bill in the United States District Court for the Northern District of Illinois against its stockholders for the purpose of enforcing their individual liabilities under the statute (Tit. 12, § 812, U. S. C.); that service was had upon all stockholders found residing in Illinois who for the most part answered; that the cause was referred to a Master who found the bank insolvent in that its liabilities exceeded its assets by approximately twelve million dollars and that an assessment of 100% against the stockholders

would be necessary; that a decree was entered confirming the Master's report and making a 100% assessment against the stockholders and that the defendants who were before the court were directed to pay such assessments to the receiver who was originally appointed by the Federal Farm Loan Board and reappointed by the court; that the decree was binding not only upon Illinois stockholders who were before the court but upon all stockholders of the bank wherever residing.

The bill prayed that it might be treated as a class suit on behalf of all creditors of the bank for the purpose of enforcing the assessment decreed by the Illinois District Court against defendants resident in Ohio, to the end that there be provided a fund to be administered by the court for the equal benefit of all creditors of the bank; that a decree be entered against defendant stockholders directing and ordering them to pay their assessments; that a receiver be appointed for the fund to be realized and that it be administered and distributed by the court ratably and equitably among the creditors of the bank. The bill also prayed for any needed discovery. It was later amended so as to aver the death of certain defendants and to allege the existence of their personal representatives.

Various defendants moved to dismiss the bill. The court sustained the motion, hence this appeal.

The gravamen of the court's action was that the bill was not sustainable for lack (1) of jurisdiction in equity; and (2) of the requisite statutory amount involved. We think otherwise.

The suit was instituted after the decision in *Wheeler* v. *Greene,* 280 U. S. 49, and was properly brought as a class action. *Brusselback* v. *Cago Corp'n,* 85 Fed. (2d) 20 (C. C. A. 2). The alleged liability of defendants arose out of Title 12, § 812, U. S. C., printed in the margin.[1] It is an obligation to be borne equally and ratably by all defendants. When enforced, its proceeds go into a common fund which when made ready for distribution should be shared equally and ratably by all creditors. *Alsop* v.

[1] "§ 812. Individual liability of shareholders.

Shareholders of every joint-stock land bank organized under this chapter shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent of the amount of stock owned by them at the par value thereof, in addition to the amount paid in and represented by their shares."

Conway, 188 Fed. 568, 575 (C. C. A. 6). No creditor may disregard the rights of others and subject the fund or any portion of it in a suit at law to the satisfaction of his individual claim. In *Terry* v. *Little,* 101 U. S. 216, the charter of the bank provided that upon its failure the stockholders should be liable for any sum not exceeding twice the amount of the shares. At page 217 the court said:

> "This, as we think, means that on the failure of the bank each stockholder shall pay such sum, not exceeding twice the amount of his shares, as shall be his just proportion of any fund that may be required to discharge the outstanding obligations. The provision is, in legal effect, for a proportionate liability by all stockholders. Undoubtedly, the object was to furnish additional security to creditors, and to have the payments when made applied to the liquidation of debts. So, too, it is clear that the obligation is one that may be enforced by the creditors; but as it is to or for all creditors, it must be enforced by or for all. The form of the action, therefore, should be one adapted to the protection of all. A suit at law by one creditor to recover for himself alone is entirely inconsistent with any idea of distribution. As the liability of the stockholder is not to any individual creditor, but for contribution to a fund, out of which all creditors are to be paid alike, the appropriate remedy is by suit to enforce the contribution, and not by one creditor alone to appropriate to his own use that which belongs to others equally with himself."

"Equality is equity," or, stated in another form, "Equity delighteth in equality." An equity court is clothed with power to collect, take into custody, conserve and distribute such fund, pro rata, among the creditors who may show themselves entitled to it. All creditors have the right in one and the same suit to have their claims adjudicated and to contest the claims of others. Each defendant has a corresponding right to interpose such individual defenses as may seem applicable. Thus the various equities among all the parties both plaintiff and defendant may be effectually and com-

pletely adjudicated in one decree. If plaintiffs should establish a right to discovery touching the affairs of the defendant, Western Securities Company, equity has ample power to compel it. The machinery of a law court is wholly inadequate for such effective and complete relief.

Appellees contend that the jurisdictional amount is fixed by the separate liability of each defendant which they construe to be less than $3000.00 but such is not the test by which jurisdiction is determined. The amount in controversy is the value of the fund to be collected and distributed. See *Brusselback* v. *Cago Corp'n,* supra (p. 23); *Brusselback* v. *Chicago Joint Land Bank,* 85 Fed. (2d) 617, 619 (C. C. A. 7). It is only fair to the District Judge to say that the cases just cited were undetermined when the decree below was entered.

The decree is reversed and the cause remanded for further proceedings consistent herewith.

ORDER DENYING PETITION FOR REHEARING

(Filed March 9, 1937)

The petition to rehear is denied.

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT

I, J. W. MENZIES, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, do hereby certify that the foregoing is a true and correct copy of the record and proceedings in the case of *W. E. Brusselback, et al,* v. *Herman D. Arnovitz, et al,* No. 7344, as the same remains upon the files and records of said United States Circuit Court of Appeals for the Sixth Circuit, and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of said Court at the City of Cincinnati, Ohio, this 15th day of May, A. D. 1937.

J. W. MENZIES,
Clerk of the United States Circuit Court of Appeals for the Sixth Circuit.

(SEAL)

[fol. 100] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 11, 1937

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Brandeis took no part in the consideration and decision of this application.

Mr. Justice Black took no part in the consideration and decision of this application.

Endorsed on cover: File No. 41,589. U. S. Circuit Court of Appeals, Sixth Circuit. Term No. 108. Andrew J. Christopher, Third National Bank & Trust Co., as Executor of the Estate of George W. Weimer, Deceased, et al., petitioners, vs. W. E. Brusselback and W. I. Bell, et al., etc. Petition for a writ of certiorari and exhibit thereto. Filed June 2, 1937. Term No. 108, O. T., 1937.